

# Fort Collins City Council Agenda

Regular Meeting

6:00 p.m. Tuesday, October 4, 2022

City Council Chambers at City Hall, 300 Laporte Ave, Fort Collins, CO 80521

Zoom Webinar link: <https://zoom.us/j/98241416497>

## NOTICE:

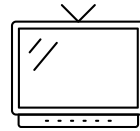
Regular meetings of the City Council are held on the 1st and 3rd Tuesdays of each month in the City Council Chambers. Meetings are conducted in a hybrid format, with a Zoom webinar in addition to the in person meeting in Council Chambers.

City Council members may participate in this meeting via electronic means pursuant to their adopted policies and protocol.

## How to view this Meeting:



Meetings are open to the public and can be attended in person by anyone.



Meetings are televised live on Channels 14 & 881 on cable television.



Meetings are available through the Zoom platform, electronically or by phone.



Meetings are livestreamed on the City's website, [fcgov.com/fctv](http://fcgov.com/fctv)

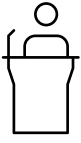
*Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 970.221.6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide 48 hours advance notice when possible.*

*A solicitud, la Ciudad de Fort Collins proporcionará servicios de acceso a idiomas para personas que no dominan el idioma inglés, o ayudas y servicios auxiliares para personas con discapacidad, para que puedan acceder a los servicios, programas y actividades de la Ciudad. Para asistencia, llame al 970.221.6515 (V/TDD: Marque 711 para Relay Colorado). Por favor proporcione 48 horas de aviso previo cuando sea posible.*



## There are four options for members of the public who would like to participate in Council meetings:

### Comment in real time:



In person attendees can address the Council in the Chambers. Speakers are required to sign up to speak on sign up sheets on the tables just outside the Chambers.



*During the public comment portion of the meeting and discussion items:*  
The public can join the Zoom webinar and comment from the remote meeting, joining online or via phone.

Full instructions for online participation are available at [fcgov.com/councilcomments](https://fcgov.com/councilcomments).

Join the online meeting using the link in this agenda to log in on an internet-enabled smartphone, laptop or computer with a speaker and microphone. Using earphones with a microphone will greatly improve audio experience.

To be recognized to speak during public participation portions of the meeting, click the 'Raise Hand' button.

Participate via phone using the call in number and meeting ID below:

Call in number: 346-248-7799

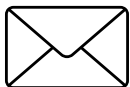
Meeting ID: 982 4141 6497

During public participation opportunities in the meeting, press \*9 to indicate a desire to speak.

### Submit written comments:



Email comments about any item on the agenda to [cityleaders@fcgov.com](mailto:cityleaders@fcgov.com)



Written comments can be mailed or dropped off at the City Manager's Office at City Hall, at 300 Laporte Ave, Fort Collins, CO 80521

**Documents to Share:** *If residents wish to speak to a document or presentation, the City Clerk needs to be emailed those materials by 4 p.m. the day of the meeting. Persons wishing to display presentation materials using the City's display equipment under the Public Participation portion of a meeting or during discussion of any Council item must provide any such materials to the City Clerk in a form or format readily usable on the City's display technology no later than two (2) hours prior to the beginning of the meeting at which the materials are to be presented.*

**NOTE:** *All presentation materials for appeals, addition of permitted use applications or protests related to election matters must be provided to the City Clerk no later than noon on the day of the meeting at which the item will be considered. See Council Rules of Conduct in Meetings for details.*



# City Council Regular Meeting Agenda

**October 4, 2022 at 6:00 PM**

---

Jeni Arndt, Mayor  
Emily Francis, District 6, Mayor Pro Tem  
Susan Gutowsky, District 1  
Julie Pignataro, District 2  
Tricia Canonico, District 3  
Shirley Peel, District 4  
Kelly Ohlson, District 5

City Council Chambers  
300 Laporte Avenue, Fort Collins  
& via Zoom at  
<https://zoom.us/j/98241416497>

Cablecast on FCTV  
Channel 14 on Connexion  
Channel 14 and 881 on Xfinity

Carrie Daggett  
City Attorney

Kelly DiMartino  
City Manager

Anissa Hollingshead  
City Clerk

---

## **PROCLAMATIONS & PRESENTATIONS 5:00 PM**

### **A) PROCLAMATIONS AND PRESENTATIONS**

No proclamations scheduled.

## **REGULAR MEETING 6:00 PM**

### **B) CALL MEETING TO ORDER**

### **C) PLEDGE OF ALLEGIANCE**

### **D) ROLL CALL**

### **E) CITY MANAGER'S AGENDA REVIEW**

- City Manager Review of Agenda
- Consent Calendar Review, including removal of items from Consent Calendar for individual discussion.

### **F) COMMUNITY REPORTS**

### **G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS (Including requests for removal of items from Consent Calendar for individual discussion.)**

*Individuals may comment regarding any topics of concern, whether or not included on this agenda. Comments regarding land use projects for which a development application has been filed should be submitted in the development review process\*\* and not to Council.*

- *Those who wish to speak are required to sign up at the table in the lobby, or online if participating remotely.*

- *Each speaker will be allowed to speak one time during public comment. If a speaker comments on a particular agenda item during general public comment, that speaker will not also be entitled to speak during discussion on the same agenda item.*
- *All speakers are asked by the presiding officer to identify themselves by raising their hand (in person or using the Raise Hand option on Zoom), and if in person then will be asked to move to one of the two lines of speakers (or to a seat nearby, for those who are not able to stand while waiting). Those participating online will be called to speak following those attending the meeting in person.*
- *The presiding officer will determine and announce the length of time allowed for each speaker.*
- *Each speaker will be asked to state his or her name and general address for the record, and, if their comments relate to a particular agenda item, to identify the agenda item number. Any written comments or materials intended for the Council should be provided to the City Clerk.*
- *A timer will beep one time and turn yellow to indicate that 30 seconds of speaking time remain and will beep again and turn red when a speaker's time has ended.*

*[\*\*For questions about the development review process or the status of any particular development, consult the Development Review Center page on the city's website at <https://www.fcgov.com/developmentreview>, or contact the Development Review Center at 970.221.6760.]*

**H) PUBLIC COMMENT FOLLOW-UP**

**I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION**

**J) ADOPTION OF CONSENT CALENDAR**

**CONSENT CALENDAR**

*The Consent Calendar is intended to allow Council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Calendar. Agenda items pulled from the Consent Calendar by either Council or the City Manager will be considered separately under their own Section, titled "Consideration of Items Removed from Consent Calendar for Individual Discussion." Items remaining on the Consent Calendar will be approved by Council with one vote. The Consent Calendar consists of:*

- *Ordinances on First Reading that are routine;*
- *Ordinances on Second Reading that are routine;*
- *Those of no perceived controversy;*
- *Routine administrative actions.*

**1. Consideration and Approval of the Minutes of the September 20, 2022 Regular Meeting.**

The purpose of this item is to approve the minutes of the September 20, 2022 Regular meeting.

2. **Second Reading of Ordinance No. 097, 2022, Appropriating Unanticipated Revenue From Philanthropic Donations Received in 2022 Through City Give for Various City Programs and Services as Designated by the Donors.**

This Ordinance, unanimously adopted on First Reading on September 20, 2022, appropriates \$90,234 in philanthropic revenue received through City Give. These miscellaneous gifts to various City service areas support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

3. **Second Reading of Ordinance No. 098, 2022, Appropriating Prior Year Reserves in the General Fund to Provide Financial Support to the United Neighbors/Vecinos Unidos for Nueva Vida Mobile Home Park.**

This Ordinance, unanimously adopted on First Reading on September 20, 2022, provides financial support to United Neighbors/Vecinos Unidos (UN/VU), a non-profit 501(c)(3) corporation that recently acquired ownership of the Parklane Mobile Home Park. On August 1, 2022, residents of the Parklane Mobile Home Park (Parklane MHP), with the help of a newly formed nonprofit (United Neighbors/Vecinos Unidos, UN/VU), outbid a commercial owner's offer and purchased their park. With this purchase, residents of Parklane have become one of only six mobile home parks in Colorado purchased by residents. UN/VU is seeking City funding toward several urgent and necessary infrastructure repairs to the park. This item was discussed at the September 1, 2022, Council Finance Committee.

4. **Second Reading of Ordinance No. 099, 2022, Annexing the Property Known as the Peakview Annexation No. 1 to the City of Fort Collins, Colorado.**

This Ordinance, unanimously adopted on First Reading on September 20, 2022, annexes a 5.78-acre portion of private property that will be used for the construction of Greenfields Drive, a future arterial street within the East Mulberry Corridor. The property to be annexed is a portion of the property subject to the Peakview Planned Land Division ("PLD") development application which is currently being processed by Larimer County and is expected to be approved prior to completion of this annexation. The remaining property subject to the PLD is expected to petition for annexation as a condition of the County's approval. The Initiating Resolution for this annexation was adopted on August 16, 2022. A related item to zone the annexed property is presented as the next item on this agenda.

*This Annexation request is in conformance with State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins Comprehensive Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreements.*

5. **Second Reading of Ordinance No. 100, 2022, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Peakview Annexation No. 1 to the City of Fort Collins and Approving Corresponding Changes to the Residential Neighborhood Sign District Map and Lighting Context Area Map.**

This Ordinance, unanimously adopted on First Reading on September 20, 2022, zones the property included in the Peakview Annexation No. 1 Annexation into the General Commercial (C-G), Neighborhood Commercial (N-C) and Medium Density Mixed Use Neighborhood (MMN) zone districts and placement into the LC1 and LC2 Lighting Context Areas.

*This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 2(d) of the Council's Rules of Meeting Procedures most recently adopted in Resolution 2022-068.*

6. **Second Reading of Ordinance No. 101, 2022, Authorizing the Release of a Restrictive Covenant on Property at 331 North Howes Street Owned by Villages, Ltd.**

This Ordinance, unanimously adopted on First Reading on September 20, 2022, authorizes the release of the Agreement of Restrictive Covenants Affecting Real Property for the property located at 331 North Howes Street. This property is owned by Villages, Ltd, a 501(c)(3) non-profit corporation managed by Housing Catalyst. In exchange for repaying the original \$3,000 in Community Development Block Grant (CDBG) loan funds, the City will allow early release of a restrictive covenant which would otherwise expire in 2023.

7. **Items Pertaining to the Annual Adjustment Ordinance.**

A. First Reading of Ordinance No. 102, 2022, Making Supplemental Appropriations from Various City Funds.

B. First Reading of Ordinance No. 103, 2022, Appropriating Prior Year Reserves in Various City Funds.

The purpose of these Annual Adjustment Ordinances is to appropriate dedicated and additional revenues or prior year reserves that need to be appropriated before the end of the year to cover related expenses that were not anticipated, and therefore, not included in the 2022 annual budget appropriation. The additional revenue is primarily from fees, charges for service, rents, contributions, donations, and grants that have been paid to City departments to offset specific expenses.

8. **First Reading of Ordinance No. 104, 2022, Authorizing the Conveyance of a Permanent, Nonexclusive Stormwater Drainage Easement on Redtail Grove Natural Area to WWW Properties, LLC.**

The purpose of this item is to authorize conveyance of a permanent, nonexclusive drainage easement to WWW Properties, LLC (owners of Fort Collins Nissan and Fort Collins Kia) on Redtail Grove Natural Area. The proposed easement area aligns with an existing historic drainage path for stormwater. WWW Properties, LLC will construct underground water quality and detention facilities on their property to capture stormwater, decrease peak flow rates into Fossil Creek, and decrease the amount of water overtopping the Fossil Creek Trail, as well as the time the trail is overtopped, during significant storm events.

9. **First Reading of Ordinance No. 105, 2022, Authorizing the Conditional Conveyance of Certain City-Owned Property Rights to Chris Vandemoer and Geo. A. Henderson Co.**

The purpose of this item is to seek Council authorization for the conditional conveyance of certain City-owned real property rights to Chris Vandemoer and Geo. A. Henderson, Co. (collectively "Vandemoer"). The proposed conveyance is part of a proposed settlement agreement between the City, Vandemoer, and The Nature Conservancy ("TNC") to obtain necessary property rights on the primary private access road for all three phases of the City's Halligan Water Supply Project ("Halligan Project"), in which the City intends to replace or modify a dam and enlarge Halligan Reservoir. Vandemoer owns certain real property adjacent to the reservoir that includes a private road that serves as the primary access point to the reservoir and the dam. The property is also encumbered by two conservation easements held by TNC. Since late 2018, City representatives have negotiated with Vandemoer to obtain property rights necessary for the Halligan Project. The parties are currently in eminent domain litigation for Phase 1 of the Project and have had productive conversations regarding a global settlement for all three phases of the Halligan Project.

The conveyance of the City-owned property would only occur if: (1) the parties enter into a settlement agreement; and (2) the City completes construction of the Halligan Project. This Ordinance does not seek approval of the settlement agreement itself. The decision whether to enter into the settlement agreement would be made by the City Manager following a recommendation by City staff, in consultation with outside legal counsel and the City Attorney's Office. This Ordinance is limited only to authorizing the conditional conveyance of City-owned property. The structure of the settlement agreement is explained more fully below.

10. **First Reading of Ordinance No. 106, 2022, Amending Chapter 26 of the Code of the City of Fort Collins Regarding Net Metered Renewable Energy Generation System Sizing and Adopting Administrative Rules for Net Metered System Sizing.**

This Ordinance amends sizing requirements in City Code that limit the generating size (i.e. production capacity) of renewable energy systems, removing reference to 120% of a customer's annual electric consumption and adopts administrative program rules to guide the Utilities' Executive Director to define allowable generation system sizing consistent with the City's 2030 energy and climate goals.

11. **Resolution 2022-101 Granting A Revocable Permit to Current Holders of Temporary Outdoor Expansion Permits Issued Pursuant to Emergency Rule and Regulation No. 2020-17A and Emergency Ordinance No. 124, 2020, to Temporarily Continue to Occupy Public Rights-of-Way.**

The purpose of this item is to bring forth a resolution that addresses a timing gap between terminating emergency rules and regulations and consideration of code changes to allow expanded outdoor permitting on an on-going basis.

**END OF CONSENT CALENDAR**

**K) CONSENT CALENDAR FOLLOW-UP** (*This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.*)

**L) STAFF REPORTS** - None

**M) COUNCILMEMBER REPORTS**

**N) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION**

## O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

*The method of debate for discussion items is as follows:*

- Mayor introduced the item number and subject; asks if formal presentation will be made by staff
- Staff presentation (optional)
- Mayor requests public comment on the item (three minute limit for each person)
- Council questions of staff on the item
- Council motion on the item
- Council discussion
- Final Council comments
- Council vote on the item

*Note: Time limits for individual agenda items may be revised, at the discretion of the Mayor, to ensure all have an opportunity to speak. **If attending in person, please sign in at the table in the back of the room.** The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker's time.*

### 12. **Resolution 2022-102 Adopting Findings of Fact Supporting the Historic Preservation Commission's Determination That 1802 North College Avenue was Eligible for Landmark Designation and Denying the Landowner's Appeal.**

The purpose of this item is to make findings of fact regarding the appeal of the Historic Preservation Commission's Decision Finding the Property at 1802 North College Avenue a Historic Resource for the Purposes of Development Review under Land Use Code 3.4.7 and therefore eligible for Landmark Designation. The appeal was heard by Council on September 20, 2022.

### 13. **Items Relating to the Designation of Indigenous Peoples' Day.**

A. Native American Community Update.

B. Resolution 2022-103 Recognizing the Second Monday in October as "Indigenous Peoples' Day" in the City of Fort Collins, Colorado, Acknowledging and Supporting the Native and Indigenous Peoples Living in Fort Collins, and Affirming the City's Commitment to Recognize and Include the Voices and Interests of Native and Indigenous Peoples in the City's Commitment to Work Towards Equity.

Members of the Fort Collins Native American and Indigenous community collectively have created a resolution recognizing the second Monday in October as Indigenous Peoples' Day. Staff from the Equity and Inclusion Office also will share an update on the work that has been taking place with the Native American community this year.

### 14. **Public Hearing #2 on the 2023-24 Recommended Budget for the City of Fort Collins.**

This is the second public hearing on the City Manager's 2023-24 Recommended Budget for the City of Fort Collins. The purpose of this public hearing is to gather public input on the 2023-24 budget. Both hearings were set by Council adoption of Resolution 2022-097 at its September 6, 2022, meeting. The City Manager's 2023-24 Recommended Budget can be reviewed at the City Clerk's Office by appointment only and online at [fcgov.com/budget](http://fcgov.com/budget).

Public input will also be taken during the budget adoption meetings on Tuesday, November 1 and Tuesday, November 15, 2022, at 6:00 p.m. in Council Chambers.



15. **1306 West Mountain Avenue Landmark Design Review Appeal.**

The purpose of this quasi-judicial item is to consider an appeal of the Historic Preservation Commission’s (HPC) Decision on July 20, 2022, regarding proposed alterations to the City landmark at 1306 West Mountain Avenue, also known as the Jackson-Bailey House & Garage.

This appeal is regarding the final design review decision of the applicants’ project by the HPC. The HPC is tasked by Municipal Code Chapter 14, Article IV, with assessing whether a proposed exterior project on a City Landmark meets the *Secretary of the Interior’s Standards for Rehabilitation*, and to issue, with or without conditions, or to deny, a Certificate of Appropriateness. In the application that was the subject of the July 20, 2022, decision being appealed, the applicant proposed an addition onto the rear elevation of the main historic building along with related rehabilitation including the modification of windows along the north end of the west elevation. The HPC approved the addition but denied the modification of windows and the Appellant is appealing the denial of the windows both on fair hearing and interpretation and application grounds.

A previous application to make alterations to the same property was approved by the HPC on February 16, 2022, with the written decision issued on and dated February 17, 2022, and included demolition of a non-historic accessory structure, construction of a new garage building, and modification of basement windows for egress compliance under the *International Existing Building Code*. The previous application included an addition to the house that was denied but a modified addition was approved as part of the July 20, 2022, HPC decision.

A Notice of Appeal was filed on August 2, 2022, under the following grounds:

1. The HPC failed to properly interpret and apply relevant provisions of the City Code, the Land Use Code, and Charter, specifically City Code Sec. 14-53, the Secretary of the Interior’s Standards for Rehabilitation (Standards 2 and 5), and the Secretary of the Interior’s “Interpreting Standards” Bulletin #14 regarding Modifications to Windows on Secondary Elevations.
2. The HPC was biased against the appellant by reason of conflict of interest or other close business, personal or social relationship that interfered with the HPC’s independence of judgement.

The HPC’s sole consideration was whether the project proposed at 1306 West Mountain Avenue met the City’s adopted standards for reviewing projects on historic buildings, the *Secretary of the Interior’s Standards and Guidelines for the Treatment of Historic Properties*, specifically those for adaptive reuse, or *Rehabilitation*.

**P) OTHER BUSINESS**

**OB 1. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.**

*(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council’s Policy Agenda or initiated by staff.)*

## Q) ADJOURNMENT

*Every regular Council meeting will end no later than midnight, except that: (1) any item of business commenced before midnight may be concluded before the meeting is adjourned and (2) the Council may, at any time prior to adjournment, by majority vote, extend a meeting beyond midnight for the purpose of considering additional items of business. Any matter that has been commenced and is still pending at the conclusion of the Council meeting, and all matters for consideration at the meeting that have not yet been considered by the Council, will be deemed continued to the next regular Council meeting, unless Council determines otherwise.*

*Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 970.221.6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide 48 hours advance notice when possible.*

*A solicitud, la Ciudad de Fort Collins proporcionará servicios de acceso a idiomas para personas que no dominan el idioma inglés, o ayudas y servicios auxiliares para personas con discapacidad, para que puedan acceder a los servicios, programas y actividades de la Ciudad. Para asistencia, llame al 970.221.6515 (V/TDD: Marque 711 para Relay Colorado). Por favor proporcione 48 horas de aviso previo cuando sea posible.*

October 4, 2022



# AGENDA ITEM SUMMARY

City Council

---

## STAFF

---

Anissa Hollingshead, City Clerk

## SUBJECT

---

**Consideration and Approval of the Minutes of the September 20, 2022 Regular Meeting.**

## EXECUTIVE SUMMARY

---

The purpose of this item is to approve the minutes of the September 20, 2022 Regular meeting.

## ATTACHMENTS

---

1. Draft Minutes, September 20, 2022

September 20, 2022

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

**A) PROCLAMATIONS AND PRESENTATIONS**

- A. Proclamation Declaring September 15-October 15, 2022 as Hispanic/Latinx Heritage Month.**
- B. Proclamation Declaring September 17-23, 2022 as Constitution Week.**
- C. Proclamation Declaring October 1 as Tour de Corgi Day.**
- D. Proclamation Declaring October 9-15 as Fire Prevention Week.**
- E. Proclamation Declaring October 15-16 as The Cupboard’s 50th Anniversary Days.**

Mayor Jeni Arndt presented the above proclamations at 5:00 p.m. in the City Council Chambers.

**B) CALL MEETING TO ORDER**

Mayor Jeni Arndt called the meeting to order at 6:00 p.m. in the City Council Chambers at 300 Laporte Avenue, Fort Collins, Colorado, with hybrid participation available via the City’s Zoom platform.

**C) PLEDGE OF ALLEGIANCE**

Mayor Jeni Arndt led the Pledge of Allegiance to the American Flag.

**D) ROLL CALL**

**PRESENT**

- Mayor Jeni Arndt
- Councilmember Susan Gutowsky
- Councilmember Julie Pignataro
- Councilmember Tricia Canonico

**ABSENT**

- Mayor Pro Tem Emily Francis
- Councilmember Shirley Peel
- Councilmember Kelly Ohlson

**STAFF PRESENT**

- City Manager Kelly DiMartino
- City Attorney Carrie Daggett
- City Clerk Anissa Hollingshead

## E) CITY MANAGER'S AGENDA REVIEW

City Manager Kelly DiMartino provided an overview of the agenda, including:

- There were no changes to the published agenda.
- All items on the consent agenda were recommended for approval.
- Noting an extended Community Report as part of the meeting from Platte River Power Authority.

## F) COMMUNITY REPORTS

### 1. Platte River Power Authority Report

Kendall Minor, Utilities Executive Director, introduced the community report and representatives from Platte River Power Authority. PRPA CEO Jason Frisbie led the presentation. Also assisting in the presentation were Raj Singam Setti, Chief Transition and Integration Officer, and Eddie Gutierrez, Chief Strategy Officer.

## G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS

*(Including requests for removal of items from Consent Calendar for individual discussion.)*

Alan Braslau, Fort Collins resident and member of the Energy Board, spoke regarding wholesale energy price increases and associated retail rate increases and the need to support energy assistance programs. He also spoke about the need to expand efforts to meet challenges around transportation that contribute to carbon issues.

Fred Kirsch, Fort Collins resident, spoke on behalf of Community for Sustainable Energy... in supporting thinking bigger around a commercial scale solar production program. He delivered signatures collected in support of this.

Tom Weatherly, Fort Collins resident, spoke to request the ending of the Spin program for bike and scooter rentals due to the way these are being parked and impeding access on sidewalks and roadways. He provided photos.

Paul Gessler, representing the group Back from the Brink, spoke regarding nuclear weapons and the need to end the threat of nuclear war and asked council to endorse the United Nations Treaty on the Prohibition of Nuclear Weapons. Also requested was two hours of time a week in the Council Chambers to hold public information events regarding this topic.

Yenny Andreu, Fort Collins resident, spoke as a Colombian immigrant to thank the Council for their support of immigrant communities.

Tallon Nightwalker, director of Northern Colorado Wildlife Center, spoke in support of having wildlife health and support in the City's budget beyond the current non-profit being funded that only provides euthanasia services.

Jesus Castro, resident of Fort Collins, spoke regarding his work with the immigrant community in Fort Collins and his appreciation for the support of the Fort Collins community.

Maya Ortega, resident of Fort Collins, spoke in support of the Art to Live program that is part of a proposed budget offer.

Jerry Gavaldon, Fort Collins resident and president of the Museo Tres Colonias board, shared his appreciation for the help of Maren Bzdek and others across the City in work done on the Museo.

Patricia Miller, Fort Collins resident, shared her appreciation for the support of immigrant communities in Fort Collins.

Kellie Falbo with the Sustainable Living Association, participating online, shared her support for offer 32.16, Seed Funding for a Partner-Led Sustainable Business Program.

## H) PUBLIC COMMENT FOLLOW-UP

Councilmember Gutowsky acknowledged the appreciation of the Museo and offered her encouragement for the community to visit and enjoy the Museo and see the adobe as well as the altars.

Councilmember Canonico expressed appreciation for the reminder transportation is a big part of decarbonization. She also requested more information on the nuclear weapons treaty.

Mayor Arndt thanked everyone for coming out, and shared agreement there is room for improvement with Spin as a private partner. Regarding the request for use of public facilities, it was noted staff would follow up with the resident making that request regarding City policies.

## I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

None.

## J) CONSENT CALENDAR

### 1. Consideration and Approval of the Minutes of the September 6, 2022 Regular Meeting.

*The purpose of this item is to approve the minutes of the September 6, 2022 Regular meeting.*

***Approved.***

### 2. Second Reading of Ordinance No. 090, 2022, Authorizing the Conveyance of an Emergency Access Easement to Poudre Fire Authority on City-owned Real Property Located at 430 N. College Avenue.

*This Ordinance, unanimously adopted on First Reading on August 16, 2022, authorizes the conveyance of an Emergency Access Easement (EAE) to Poudre Fire Authority (PFA) on City-owned real property located at 430 N. College Avenue. The City leases this property, which is the location of the Powerhouse Energy Campus, to the Colorado State University Research Foundation (CSURF). CSURF has submitted plans to the City to make improvements to the property to support a hydrogen fueling station and turbine generator. As a condition of approval, the City, as property owner, is required to convey an EAE to PFA to support fire truck and emergency equipment access, which is a common requirement for new development and improvements on certain properties. Conveyance of the EAE is the final action needed for the City's Planning, Development, and Transportation Department to approve the project and issue construction permits as CSURF has met all other lease and development review requirements.*

***Adopted on Second Reading.***

3. **Second Reading of Ordinance No. 095, 2022, Appropriating Philanthropic Revenue Received by City Give for the 2022 Parks Independence Day Celebration and the 2022 Community Development and Neighborhood Services Urban Design Awards.**

*This Ordinance, unanimously adopted on First Reading on September 6, 2022, appropriates philanthropic revenue designated for the 2022 Independence Day Celebration and the 2022 Community Development and Neighborhood Services Urban Design Awards.*

***Adopted on Second Reading.***

4. **Second Reading of Ordinance No. 096, 2022, Conditionally Vacating a Portion of Coleman Street Right-of-Way.**

*This Ordinance, unanimously adopted on First Reading on September 6, 2022, adopts the conditional vacation of a portion of Coleman Street right-of-way that is no longer desirable or necessary to retain for street purposes. The right-of-way area, once vacated, will be retained in its entirety as a public utility and public access easement to the City. The right-of-way vacation will be conditional upon the demolition of the existing street stub of Coleman Street and the reconstruction of the vacated area as a landscape and pedestrian area. These conditions are outlined in detail in the Ordinance.*

***Adopted on Second Reading.***

5. **First Reading of Ordinance No. 097, 2022, Appropriating Unanticipated Revenue From Philanthropic Donations Received in 2022 Through City Give for Various City Programs and Services as Designated by the Donors.**

*The purpose of this item is to request appropriation of \$90,234 in philanthropic revenue received through City Give. These miscellaneous gifts to various City service areas support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation.*

*In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.*

***Adopted on First Reading.***

6. **First Reading of Ordinance No. 098, 2022, Appropriating Prior Year Reserves in the General Fund to Provide Financial Support to the United Neighbors/Vecinos Unidos for Nueva Vida Mobile Home Park.**

*The purpose of this item is to provide financial support to United Neighbors/Vecinos Unidos (UN/VU), a non-profit 501(c)(3) corporation that recently acquired ownership of the Parklane Mobile Home Park. On August 1, 2022, residents of the Parklane Mobile Home Park (Parklane MHP), with the help of a newly formed nonprofit (United Neighbors/Vecinos Unidos, UN/VU), outbid a commercial owner's offer and purchased their park. With this purchase, residents of Parklane have become one of only six mobile home parks in Colorado purchased by residents. UN/VU is seeking City funding toward several urgent and necessary infrastructure repairs to the park. This item was discussed at the September 1, 2022, Council Finance Committee.*

***Adopted on First Reading.***

**7. Items Relating to the Peakview Annexation No. 1.**

**A. Resolution 2022-099 Setting Forth Findings of Fact and Determinations Regarding the Peakview Annexation No. 1.**

**B. Public Hearing and First Reading of Ordinance No. 099, 2022, Annexing the Property Known as the Peakview Annexation No. 1 to the City of Fort Collins, Colorado.**

*The purpose of this item is to annex a 5.78-acre portion of private property that will be used for the construction of Greenfields Drive, a future arterial street within the East Mulberry Corridor. The property to be annexed is a portion of the property subject to the Peakview Planned Land Division (“PLD”) development application which is currently being processed by Larimer County and is expected to be approved prior to completion of this annexation. The remaining property subject to the PLD is expected to petition for annexation as a condition of the County’s approval. The Initiating Resolution for this annexation was adopted on August 16, 2022. A related item to zone the annexed property is presented as the next item on this agenda.*

This Annexation request is in conformance with State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins Comprehensive Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreements.

***Adopted and Adopted on First Reading.***

**8. Public Hearing and First Reading of Ordinance No. 100, 2022, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Peakview Annexation No. 1 to the City of Fort Collins and Approving Corresponding Changes to the Residential Neighborhood Sign District Map and Lighting Context Area Map.**

*The purpose of this item is to zone the property included in the Peakview Annexation No. 1 Annexation into the General Commercial (C-G), Neighborhood Commercial (N-C) and Medium Density Mixed Use Neighborhood (MMN) zone districts and placement into the LC1 and LC2 Lighting Context Areas.*

***Adopted on First Reading.***

**9. First Reading of Ordinance No. 101, 2022, Authorizing the Release of a Restrictive Covenant on Property at 331 North Howes Street Owned by Villages, Ltd.**

*The purpose of this item is to obtain authorization from Council to release the Agreement of Restrictive Covenants Affecting Real Property for the property located at 331 North Howes Street. This property is owned by Villages, Ltd, a 501(c)(3) non-profit corporation managed by Housing Catalyst. In exchange for repaying the original \$3,000 in Community Development Block Grant (CDBG) loan funds, the City will allow early release of a restrictive covenant which would otherwise expire in 2023.*

***Adopted on First Reading.***



**10. Resolution 2022-100 Supporting a Grant Application for Gray and Black Market Marijuana Enforcement Funding for Fort Collins Police Services.**

*The purpose of this item is to obtain Council support for the City to apply for grant money to support enforcement of gray- and black- market marijuana activity for Fort Collins Police Services.*

**Adopted.**

**END OF CONSENT CALENDAR**

**K) ADOPTION OF CONSENT CALENDAR**

***Councilmember Pignataro moved, seconded by Councilmember Gutowsky, to approve the recommended actions on items 1-10 on the consent calendar.***

***The motion carried 4-0.***

***Absent: Mayor Pro Tem Francis, Councilmember Peel, and Councilmember Ohlson.***

**L) CONSENT CALENDAR FOLLOW-UP** *(This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.)*

None.

**M) STAFF REPORTS**

None.

**N) COUNCILMEMBER REPORTS**

Susan Gutowsky

- Attended and shared a recognition on behalf of the City at the Food Coop 50th Anniversary celebration.
- Spoke at the First United Methodist Church regarding current and future Council activities.
- Attended the monthly meeting of the Behavioral Health Policy Council, with an update on how the facility under construction is doing, currently at 50% complete.
- Attended the City's Volunteer recognition event last week at Gardens on Spring Creek with several other members of Council.
- Attended a Women Transforming Government event last week with Councilmember Peel.
- Attended the Hispanic/Latinx Heritage Month celebration over the weekend held at the Aztlan Center.

Tricia Canonico

- Attended an event at Harmony Village Mobile Home Park last Saturday with elected officials across the area that provided an opportunity to share resources with the community.

Julie Pignataro

- Attended the Neighbor-to-Neighbor Welcome Home benefit on September 8 raising funds to help keep people in their homes.

Jeni Arndt

- Added that volunteers are essential to the community.
- Noted Linden Street opened and hosted a nice celebration last Friday.
- Acknowledged the regionalism and collaboration that has been occurring, including the event held the prior weekend across local jurisdictions to help in resolving outstanding warrants.

*Clerk's Note: Mayor Arndt called for a ten-minute break at 7:50 p.m. The meeting resumed at 8:03 p.m.*

**O) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION**

None.

**P) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION**

**12. Public Hearing #1 on the 2023-24 Recommended Budget for the City of Fort Collins.**

*This is the first public hearing on the City Manager's 2023-24 Recommended Budget for the City of Fort Collins. The purpose of this public hearing is to gather public input on the 2023-24 budget. To receive further public input, a second public hearing is scheduled for Council's Tuesday, October 4, 2022, regular meeting at 6:00 p.m. in Council Chambers with the option for remote participation through the online Zoom meeting platform. Both hearings were set by Council adoption of Resolution 2022-097 at its September 6, 2022, meeting. The City Manager's 2023-24 Recommended Budget can be reviewed at the City Clerk's Office by appointment only and online at [fcgov.com/budget](http://fcgov.com/budget).*

Travis Storin, Chief Financial Officer, was present on behalf of staff to address any questions.

Faith Johnson, Fort Collins resident, spoke in support of offer 50.15, Art to Live.

**13. Appeal of 1802 North College Avenue City Landmark Eligibility for Development Review.**

*The purpose of this quasi-judicial item is to consider an appeal of the Historic Preservation Commission's (HPC) Decision on July 20, 2022, determining that the property at 1802 North College Avenue, Pobre Pancho's, is eligible as a Fort Collins Landmark and subject to the provisions of Land Use Code 3.4.7. Appeals of quasi-judicial commission decisions are processed under Municipal Code Chapter 2, Article II, Division 3. The Council is tasked, after considering the evidence, to uphold, overturn, or modify the decision of the Historic Preservation Commission (Sec. 2-56). The Council may also remand the matter to the HPC or an alternate decision-maker in certain circumstances under Sec. 2-56.*

*A Notice of Appeal of the HPC's decision was filed on August 3, 2022. The appellant, H and H Properties, LLC, (H&H) appealed the decision on two grounds. First, H&H argues that the HPC considered evidence relevant to its findings which was substantially false or grossly misleading. Second, H&H argues that the HPC failed to properly interpret and apply provisions of the City Code, specifically Municipal Code Sec. 14-22, Standards for Eligibility, and Sec. 14-23 Process for Determining Eligibility.*

*This item is a quasi-judicial matter and will be considered in accordance with the Council appeal procedures described in Division 3 of Article II of Chapter 2 of the City Code.*

Mayor Arndt introduced the item and the nature of the appeal.

City Attorney Carrie Daggett provided a brief overview of the appeal process.

#### STAFF EXPLANATION AND PRESENTATION

Paul Sizemore, Community Development and Neighborhood Services Director, presented on behalf of staff as set forth in the slide deck in the agenda materials to provide an explanation of the nature of the appeal.

#### CONFLICTS

Mayor Arndt asked if any Councilmembers wished to disclose any potential conflict of interest issues. No conflicts were disclosed.

#### SITE VISIT OBSERVATIONS

Mayor Arndt asked Councilmembers who participated in the site visit on September 16 to describe their observations that may be relevant to the appeal.

Councilmember Gutowsky noted she attended the site visit, and was able to observe the exterior condition of the building.

#### PARTIES IN INTEREST PRESENT

Mayor Arndt asked the appellant and property owner as well as any parties in interest to identify themselves.

Present in support of the appeal:

- Jeff Cullers, attorney for the appellant, H&H Properties
- Asher Haun, owner of H&H Properties, the subject property owner and appellant
- Mike Kroneberger, a party in interest as the owner of an adjacent property having received hearing notices

Present and opposed to the appeal:

- Monica Bird, party in interest as someone who spoke at the hearing
- Mary Perez, party in interest as someone who spoke at hearing
- Maria Perez, party in interest as someone who spoke at hearing

#### TIME ALLOCATIONS

Mayor Arndt provided the time allocation, indicating each side of the appeal would be provided 20 minutes in total for each side of the appeal to make any initial presentations, and then 10 minutes for each side for rebuttals.

#### PROCEDURAL ISSUES

Mayor Arndt asked if there were any general procedural issues or objections to be addressed before the Council began hearing arguments. No issues or objections were raised.

#### APPELLANT AND PARTIES IN INTEREST IN SUPPORT OF THE APPEAL PRESENTATION

Mayor Arndt invited the appellant and other parties-in-interest in support of the appeal to make their presentation in support of the appeal.

Asher Haun, owner of H and H Properties, the subject property owner and appellant provided information about his acquisition and ownership of the property. As part of the information provided, he included details on the losses the restaurant sustained under his ownership even while he undertook substantial updating of the facility with the intention to continue operations.

Jeff Cullers, attorney for H and H Properties, presented as set forth in his slide deck in support of the appeal. His presentation included details on H and H Properties, LLC's ownership of the site, renovations done, and objections to the significance findings of the Historic Preservation Commission.

Mark Kroneberger, owner of North College Motors, spoke in support of the appeal. He noted Frank Perez, as the prior owner of the business, had attempted to sell the property for more than 15 years and would not have supported this action because of its impact on his ability to market and sell the property.

#### PRESENTATION BY PARTIES IN INTEREST OPPOSED TO THE APPEAL

Mayor Arndt invited those opposed to the appeal to make their presentation against the appeal.

Monica Bird came forward and requested to provide the Council with written materials that include supporting information for her remarks. City Attorney Daggett noted the materials had been reviewed by her office and a determination was made new evidence was included. Because of this, she indicated the Council would need to make a determination regarding allowing new evidence outside of the normal parameters allowed under the appeal process. Mayor Arndt ruled new evidence would not be permitted.

Monica Bird, daughter of Frank Perez, spoke against the appeal and in support of the determination of eligibility for this property, providing information about the life story of Frank Perez and his journey as a Mexican immigrant to Fort Collins, as part of the larger context for Mexican immigration to the community and resulting struggles in establishing livelihoods, including starting businesses.

Mary Perez spoke against the appeal and in support of the determination of eligibility for this property. She provided information about her husband, Frank Perez, and his life history and work establishing the business at the subject property.

Amelia Perez, daughter of Frank Perez, spoke against the appeal and in support of the determination of eligibility for this property, noting her niece still owns 5% of the business and no notice was provided to her or any other family members about the intention to close down the business and sell the site.

#### APPELLANT REBUTTAL

Jeff Cullers requested all new evidence presented orally be struck. City Attorney Daggett noted the objection would be noted for the record, including specifically the following information provided during comments from those opposed to the appeal:

- Frank Perez's involvement with Holy Family Church generally,
- Frank Perez's involvement in Church fundraisers at Holy Family Church. and
- Ownership information about El Burrito restaurant in Fort Collins.

His rebuttal continued, noting historic landmarking can be a great thing but can also be abused. He indicated a belief there is a personal conflict involved in this situation, referencing quotes attributed to Monica Bird regarding the closure in news coverage in the Coloradoan. In response to some of the assertions made by those opposed to the appeal, he indicated there was evidence presented

in the Historic Preservation Commission hearing about the abrupt closure of the restaurant being standard for the restaurant industry. He noted this is not about racism, although the Perez family is trying to turn it into that, and that the restaurant on this site, Pobre Panchos, did not have anything to do with the sugar beet industry in Fort Collins and that part of the history of Mexican immigrants in the community.

## REBUTTAL BY THOSE OPPOSED TO THE APPEAL

Monica Bird indicated she was sad and upset when the restaurant suddenly closed, in a human response to the circumstances, but does not want ill will and is trying to work with outside parties for a win-win outcome. She noted her dad would want something to commemorate the hard work of himself and other Latinos. He would want to make it so it is recognizable and to help other people. She understands they don't own the building right now and she is trying to work on something with other members of the community.

## COUNCIL QUESTIONS

### Councilmember Pignataro

- Asked about when the property was surveyed. Staff indicated the property was not surveyed until March of this year as part of the development review process for a land use application. It was not part of a proactive historic survey.
- Asked if the process is the same for voluntary or involuntary designations. Staff indicated that it is not for the eligibility process.
- Asked for details about the current stage. This is regarding eligibility but is not a landmark designation. Landmark designation can occur with nomination by a property owner, or by nomination by three city residents.
- Asked about how historic integrity is measured related to specific places, such as evaluating someone's home versus workplace. There is evaluation around the period of occupation and how well the property still reflects that story.

### Councilmember Gutowsky

- Noted the comments about the information that was presented by Ms. Bird as new evidence. She asked about the comments by the appellant's attorney regarding statements made by Ms. Bird and whether that constituted new evidence.
- Asked if a property can be sold without the consent of all owners. Mr. Cullers noted the property is owned by H and H Properties and can be sold by the authorized decision makers of H and H Properties. Mr. Haun noted the 5% share of ownership associated with the Perez family is of the restaurant business, not the property.
- Asked for clarification on who was being referenced as the historian. It was noted it was a third-party historian contracted by the City.
- Asked if the fact Mr. Perez was attempting to market his property previously was new information. Mr. Cullers stated he was uncertain, but that the fact Mr. Perez sold the restaurant is evident and a clear indication of his desire to do so.
- Asked staff to share the benefits to the owners of the property should the property be designated. Staff noted this specific decision is related to a development review and therefore has no associated financial incentives. If the property were to ultimately be designated, there are financial incentives available to the property owner as a result of the designation.
- Asked Mr. Cullers where he resides, given comments made that indicate a lack of knowledge about the history of this community. It was deemed that question was not relevant.

Mayor Arndt

- Asked staff if the eligibility determination has an impact on value. Staff indicated it is a complex question and depends on the market and a number of factors. Where there is a difference between the zoning's highest and best use and what is allowed with a historic designation, it can result in a decrease in value. The financial incentives available tend to help put things in favor of historic designation.
- Asked Ms. Bird in terms of value and timing why had the family not sought eligibility before the sale of the property. She responded her father was humble and didn't see himself that way or that it was potentially eligible.

Councilmember Canonico

- Noted determinations can be subjective, in this case through the use of third-party historian. She noted a trend was identified based on one determination and wondered if more than one opinion could have been sought. Mayor Arndt followed up and asked if the City ever looks at more than one historian. Staff indicated the historian used relies on other evidence and materials drawing from wider sources that are reflected in the survey form and its bibliography.

Mayor Arndt

- Asked how the business and the place relate, given it seems clear the business is historic but less so that the place is. Staff noted the role of historic preservation is identifying when the building connects a historic trend to the place where that story occurred.

Councilmember Gutowksy

- Noted another business in the area has previously been designated.

The Council requested to have City Attorney Daggett discuss the short list of things brought up as new evidence by both sides of the appeal:

- Information presented by opponents to the appeal about:
  - Mr. Perez's involvement with Holy Family
  - Involvement with a fundraiser
  - Ownership of El Burrito
- Council for the Appellant read quotes from a newspaper

The mayor ruled all these items should be struck from the record and not relied on by the Council in making its determination. Mayor Arndt closed the hearing at 9:54 a.m.

## COUNCIL DISCUSSION

Councilmember Gutowsky indicated she was able to make the following conclusions as a result of the evidence provided to the Council:

- Gathered from the survey the restaurant was moved north of the Poudre River from downtown;
- It played a role in Greatly enhanced Hispanic culture in the Fort Collins community;
- Does believe it was a fair hearing and that staff correctly interpreted the standards in the designation.

Councilmember Pignataro shared the following conclusions:

- Feels the HPC was doing what they are intended to do and did adhere to code;
- Expressed worried about the future of this building and what is going to look like in 10 years;
- In the future, it will be necessary to address the appeal process and the historic preservation efforts.

Councilmember Canonico indicated her finding that the HPC did follow the parameters identified.

Mayor Arndt shared the following conclusions:

- Equally uneasy with involuntary eligibility and the timing, with the potential impact on value;
- As a resident of Fort Collins since 1964 has seen the social segregation that had occurred as well as the historic trends and value of people operating businesses;
- The way the code reads and with the process as it stands, the hearing was fair and there is rationale behind the findings.

***Councilmember Pignataro moved, seconded by Councilmember Canonico, that the Council find that the HPC conducted a fair hearing in their consideration of the Eligibility for Landmark Designation of 1802 North College Avenue and did not consider false or misleading evidence relevant to their decision because:***

- ***the evidence regarding the closing Pobre Panchos is described as “irrelevant” by the Appellant; not “relevant” as required by City Code for appeal; and***
- ***the evidence regarding Mr. Frank Perez directly related to the analysis under Section 14-22 “Significance” upon which the HPC made its eligibility determination.***

***The motion carried 4-0.***

***Absent: Mayor Pro Tem Francis, Councilmember Peel, and Councilmember Ohlson.***

***Councilmember Pignataro moved, seconded by Councilmember Canonico, that the Council find that the HPC properly interpreted and applied the following relevant provisions of the Land Use Code in their consideration of the eligibility determination for 1802 North College Avenue because:***

- ***the Significance criteria of the Fort Collins Municipal Code Sections 14-22(a)(2) Persons/Groups was met because the evidence that was presented they properly interpreted; and***
- ***the Integrity criteria of the Fort Collins Municipal Code Section 14-22(b) was met also because the evidence presented was properly interpreted;***

***and further moved that the Hearing Officer correctly decided all criteria that are the subject of this appeal not specified in this motion, and that the appeal is denied with respect to those issues.***

***The motion carried 4-0.***

***Absent: Mayor Pro Tem Francis, Councilmember Peel, and Councilmember Ohlson.***

## **Q) OTHER BUSINESS**

### **A. Possible consideration of the Initiation of new ordinances and/or resolutions by Councilmembers.**

*(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)*

None.

**R) ADJOURNMENT**

There being no further business before the Council. the meeting was adjourned at 10:09 p.m.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



October 4, 2022



## AGENDA ITEM SUMMARY

City Council

---

### STAFF

---

Nina Bodenhamer, City Give Director  
John Duval, Legal

### SUBJECT

---

**Second Reading of Ordinance No. 097, 2022, Appropriating Unanticipated Revenue From Philanthropic Donations Received in 2022 Through City Give for Various City Programs and Services as Designated by the Donors.**

### EXECUTIVE SUMMARY

---

This Ordinance, unanimously adopted on First Reading on September 20, 2022, appropriates \$90,234 in philanthropic revenue received through City Give. These miscellaneous gifts to various City service areas support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

### STAFF RECOMMENDATION

---

Staff recommends adoption of the Ordinance on Second Reading.

### BACKGROUND / DISCUSSION

---

The City has long been the beneficiary of local generosity and has a valuable role in our community's philanthropic landscape. Generosity is demonstrated in both large and modest gifts, each appreciated for its investment in the mission and the range of services the City strives to deliver.

In 2022, the City received several individual philanthropic donations supporting various departments totaling \$90,234 and these funds are currently unappropriated.

As acknowledged by Section 2.5 of the City's Fiscal Management Policy 2-Revenue approved by Council, the City Manager has adopted the City Give Financial Governance Policy to provide for the responsible and efficient management of charitable donations to the City; and 52.2.C. of the City Give Policy authorizes the City Give Director to accept donations of \$5,000 or less for the City service area as designated by the donor.

This Appropriation also includes a gift \$50,000 received by The Gardens on Spring Creek made by The Friends of the Gardens designated for operations.

These generous donations have been directed by the respective donors to be used by the City for designated uses within and for the benefit of City service areas and programs as each donation is described in Exhibit "A" attached to the Ordinance.

## **CITY FINANCIAL IMPACTS**

---

This Ordinance will appropriate \$90,234 in philanthropic revenue received through City Give for gifts to various City service areas to support a variety of programs and services.

The funds have been received and accepted per the City Give Administrative and Financial Policy. The City Manager has also determined that these appropriations are available and previously unappropriated from the designated funds and will not cause the total amount appropriated in these funds to exceed the current estimate of actual and anticipated revenues and all other funds to be received in these funds during fiscal year 2022.

The proposed increase to appropriated expenditures is summarized below:

### **2022 Unanticipated Revenue**

General Fund	\$ 9,819
Cultural Services Fund	\$ 68,225
Transportation Fund	\$ 11,500
Golf Fund	\$ 690

These donations have been received and accepted per the City Give Administrative and Financial Policy.

## **BOARD / COMMISSION RECOMMENDATION**

---

None.

## **PUBLIC OUTREACH**

---

None.

## **ATTACHMENTS**

---

First Reading Attachments not included.

1. Ordinance for Consideration
2. Exhibit A

ORDINANCE NO. 097, 2022  
 OF THE COUNCIL OF THE CITY OF FORT COLLINS  
 APPROPRIATING UNANTICIPATED REVENUE  
 FROM PHILANTHROPIC DONATIONS RECEIVED IN 2022 THROUGH CITY GIVE  
 FOR VARIOUS CITY PROGRAMS AND SERVICES AS DESIGNATED BY THE DONORS

WHEREAS, since March 2022, the City has received twenty-seven individual philanthropic donations of \$5,000 or less and two individual donations of \$5,000 up to \$100,000, which twenty-nine donations total \$90,234, and these funds are currently unappropriated; and

WHEREAS, these donations have been directed by the donors to be used by the City for certain designated uses within and for the benefit of certain City service areas as each donation is described in Exhibit “A” attached hereto and incorporated herein by reference; and

WHEREAS, as acknowledged by Section 2.5 for the City’s Fiscal Management Policy 2 – Revenue approved by City Council, the City Manager has adopted the City Give Financial Governance Policy to provide for the responsible and efficient management of charitable donations to the City (the “City Give Policy”); and

WHEREAS, Section 52.2.C. of the City Give Policy authorizes the City Give Director to accept donations of \$5,000 or less for the City service area intended by the donor to be benefited and Section 52.2.D. of the City Give Policy authorizes the City Manager to accept donations of more than \$5,000 up to \$100,000; and

WHEREAS, as so authorized, the City Give Director and City Manager have accepted for the benefited City service areas, as applicable, the donations to be appropriated in this Ordinance to be used as directed by each donor as described in Exhibit “A”; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriations described in Section 2 of this Ordinance and determined that the amount of each of these appropriations is available and previously unappropriated from the funds named in Section 2 and will not cause the total amount appropriated in each such fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in those funds during this fiscal year; and

WHEREAS, these appropriations will serve the public purpose of providing additional revenue to each of the benefited service areas to aid in accomplishing the public purposes for which each service area is established thereby benefiting the public’s health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from the following funds these amounts of philanthropic revenue received in 2022 to be expended as designated by the donors in support of the various City programs and services as described in Exhibit "A":

General Fund	\$ 9,819.00
Cultural Services Fund	\$ 68,225.00
Transportation Fund	\$ 11,500.00
Golf Fund	\$ 690.00

Introduced, considered favorably on first reading and ordered published this 20th day of September, A.D. 2022, and to be presented for final passage on the 4th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading this 4th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



**Exhibit “A”**

Item 2.

City Give  
 215 N Mason Street, 2<sup>nd</sup> Floor  
 PO Box 580  
 Fort Collins, CO 80522  
**970.221.6687**  
 fcgov.com

**UNANTICIPATED REVENUE (2022 Donations)**

City Department/Donor Designation	Donor	Gift Date	Gift Amount
Digital Access & Equity	German Marshall Fund	03/10/2022	2,000.00
Open Streets, Fc Moves	Midtown Veterinary	08/10/2022	2,000.00
Open Streets, FC Moves	HS&D	08/11/2022	2,000.00
Parks/Forestry	Kevin Aldrich & Toni Patton	08/04/2022	500.00
Parks/Forestry	Linda Sanchez	03/24/2022	500.00
Parks/Forestry	Sally Bowly	04/21/2022	500.00
Parks/Forestry	Mark Johnson	04/21/2022	500.00
Parks/Forestry	Sean Burns	05/31/2022	500.00
Parks/Forestry	Kim Kelley	05/31/2022	500.00
Parks/Forestry	Ft Collins Pickleball	07/14/2022	500.00
Parks/Forestry	Michael Smith	07/27/2022	500.00
Parks/Forestry	Deklan & Susan Dieterly	07/27/2022	500.00
The Gardens on Spring Creek	National Audubon Society	03/07/2022	4,000.00
The Gardens on Spring Creek	Friends of the Gardens	03/14/2022	13,200.00
The Gardens on Spring Creek	Friends of the Gardens	04/04/2022	50,000.00
The Gardens on Spring Creek	Grant (\$25); NoCo Daylilly Club (\$1,000)	06/21/2022	1,025.00
Finance Admin/City Give	Community Foundation of NoCo	07/01/2022	3,319.00
Youth Bike, FC Moves	FoCo Fondo	08/12/2022	5,000.00
Youth Bike, FC Moves	Bohemian Foundation/Music Event	08/13/2022	2,500.00
Youth Golf Scholarship	William and Wendy Lopez	03/04/2022	100.00
Youth Golf Scholarship	Jennifer & Randall Schwartz	07/01/2022	50.00
Youth Golf Scholarship	Larry Pippitt	07/11/2022	100.00
Youth Golf Scholarship	Patty & Jerry Johnstone	07/15/2022	50.00
Youth Golf Scholarship	John & Kelly Bailey	08/03/2022	50.00
Youth Golf Scholarship	Misc. Donors,	08/17/2022	165.46
Youth Golf Scholarship	Ross & Kelly Liggett	08/18/2022	100.00
Youth Golf Scholarship	James & Julie Spencer	08/19/2022	25.00
Youth Golf Scholarship	Pam Harrold	08/20/2022	25.00
Youth Golf Scholarship	Merle & Norma Gier	08/21/2022	25.00

October 4, 2022

# AGENDA ITEM SUMMARY

City Council




---

## STAFF

Sue Beck-Ferkiss, Social Policy and Housing Programs Manager  
 JC Ward, Senior Planner  
 Ingrid Decker, Legal

---

## SUBJECT

**Second Reading of Ordinance No. 098, 2022, Appropriating Prior Year Reserves in the General Fund to Provide Financial Support to the United Neighbors/Vecinos Unidos for Nueva Vida Mobile Home Park.**

---

## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on September 20, 2022, provides financial support to United Neighbors/Vecinos Unidos (UN/VU), a non-profit 501(c)(3) corporation that recently acquired ownership of the Parklane Mobile Home Park. On August 1, 2022, residents of the Parklane Mobile Home Park (Parklane MHP), with the help of a newly formed nonprofit (United Neighbors/Vecinos Unidos, UN/VU), outbid a commercial owner's offer and purchased their park. With this purchase, residents of Parklane have become one of only six mobile home parks in Colorado purchased by residents. UN/VU is seeking City funding toward several urgent and necessary infrastructure repairs to the park. This item was discussed at the September 1, 2022, Council Finance Committee.

---

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

---

## BACKGROUND / DISCUSSION

Parklane Mobile Home Park (Parklane MHP) is a mobile home community established in 1958 with 68 manufactured homes and a duplex located within the growth management area of the City. Approximately 200 adults and more than 100 children reside in the community. While Parklane MHP is outside City limits, the park is located in the East Mulberry enclave and will likely be annexed into the City at some point in the future. See location map.

When the owner of Parklane MHP decided to sell the park in 2021, the residents had an opportunity to organize to preserve the park as an affordable mobile home community, ensuring that these homes remain affordable to low-income households and are operated with a commitment to creating community that provides safe and secure housing options.

### History of UN/VU and Purchase of the Mobile Home Park

Over six years ago, a trusted relationship was established between the residents of Parklane MHP, the Genesis Project – a faith-based neighbor of the park – and the Matthews House, a local non-profit

empowering youth and families to close the poverty cycle in Northern Colorado. In December of 2021, all three parties became aware that the park was for sale and an offer had been made by a private buyer. The park residents, the Genesis Project and the Mathews House knew they would need to organize quickly to take advantage of the opportunity to purchase afforded a group or association of homeowners or their assignees by Colorado Revised Statute 38-12-217. The residents organized and considered several possible structures before requesting the creation of UN/VU. Once formed, UN/VU was assigned the residents' rights to purchase the park. While this is not the same as a resident owned community structure, this was done to give the residents time to make decisions on what governance and leadership is best for their community long term. Resident ownership may be an option in the future, but for purposes of the purchase, UN/VU will own the park and the residents will govern the community.

Historically, Parklane, like most mobile home parks, was operated with divided ownership of assets. While homes could be rented or owned by the resident, the land beneath the home was rented from a private property owner. This opportunity to purchase provided by Colorado law allowed the residents to not only own their homes but to have control of their community. The residents have led the work of setting the goals, vision and voice of UN/VU and are preparing for the journey to discern what resident leadership, ownership, and governance will work best for the future. This may lead to residents owning the community in the future, and allowed UN/VU to attract funding and negotiate to purchase the park.

Financing to purchase the park for about \$6.8 million was obtained primarily from Impact Development Fund, Bohemian Foundation, and Larimer County. Larimer County provided \$1 million which will be forgiven at the rate of \$50,000 per year for 20 years provided the park remains affordable. Additional funding came from individuals and the United Way of Larimer County.

On August 1, 2022, Parklane MHP residents, with the help of the newly formed nonprofit UN/VU, outbid a commercial owner's offer and purchased their park. They became one of six mobile home parks in Colorado to accomplish buying their mobile home park. One of the first things they did was change the name of the park to Nueva Vida Mobile Home Park.

Summary timeline of organizing efforts:

- December 9th, 2021 - Notice of Intent to Sell Parklane MHP received by Parklane Residents
- December 15th, 2021 - UN/VU filed for non-profit status (Residents selected name of nonprofit)
- December 19th, 2021 - 51% of votes needed to move forward for UN/VU to represent Parklane Residents in counteroffer obtained
- February 22, 2022 - Notice to accept a Final Unconditional Offer of Parklane MHP received by Parklane Residents (90-day statutory time limit restarted)
- April 22nd, 2022 - UN/VU goes under contract for Parklane MHP
- August 1st, 2022 - UN/VU closes on Parklane MHP
- August 19th, 2022 - UN/VU has block party in Parklane to celebrate the purchase and residents revealed new voted upon name "Nueva Vida Mobile Home Park"
- September 2022-September 2023 - Resident led process with support from FLTI and CU Sustainable Community Development Legal Clinic community meetings to explore long term governance and ownership options

### **Request for Support**

While purchase financing has been secured, UN/VU has requested financial assistance from the City for immediate infrastructure needs identified during the due diligence process for acquisition. Delayed maintenance has created safety issues for the residents. A priority needs assessment identified at least \$1M in immediate infrastructure upgrades required for the park including:

Identified Need	Estimate of Cost
Tree Maintenance/Removal	\$75,000
Water & Sewer Pipes	TBD
Asphalt/concrete replacement	\$550K – 850K
Curbs & concrete repairs	\$50,000

At the City Council meeting on April 5, 2022, under Other Business on the Agenda, several City Councilmembers asked staff to examine possible assistance options supporting the purchase of this park. See City Council Minutes attached. Based on the extensive needs identified which will need to be assessed to the residents if outside funding is not secured, this request is for \$125,000 to be provided to UN/VU as a grant to be used to partially offset the cost of any of the infrastructure needs noted above. This amounts to less than \$2,000 per household. While this amount will not cover the entire identified costs, it will show local support which often can be leveraged for additional funding.

### Grant Management

The City will contract with UN/VU to establish specific terms for the grant and provide oversight for the use of these funds. Generally:

- The City’s Neighborhood Services Department will negotiate the contract and administer this grant.
- UN/VU has agreed to use approved City vendors for the infrastructure upgrades paid for with this grant, if possible, because they have been vetted and approved. UN/VU will work with City staff and the City Purchasing Department to select qualified vendors to ensure they are properly licensed and insured.
- The grant will be administered as reimbursement for work completed on a project-by-project basis until all funds have been expended.
- Funds must be used by December 31, 2023.

### City Policy Alignment

In 2013, the City published the Affordable Housing Redevelopment Displacement Mitigation Strategy. This document acknowledged that mobile home parks are important sources of housing for lower income working families, seniors and people with disabilities living in Fort Collins.

The 2015-2019 Affordable Housing Strategic Plan’s objective to Preserve the Long-term Affordability and Physical Condition of Existing Stock of housing included action items to maintain the current available stock of affordable housing including mobile home parks. This policy was reinforced in the 2021 Housing Strategic Plan specifically in Strategy 24:

- Support community organizing efforts in manufactured home communities and increase access to resident rights information, housing resources, and housing programs.



The outcome of this strategy is to increase stability and housing options for manufactures housing residents (both renters and owners) and improve housing equity.

Lastly, supporting the conversion of a MHP from a private owner to resident governance aligns with the following 2022 Strategic Objectives:

- Neighborhood Livability and Social Health 1.1 – Increase housing supply and choice and address inequities in housing to ensure that everyone has healthy, stable housing they can afford.
- Neighborhood Livability and Social Health 1.4 – Advance equity for all with an emphasis on racial justice to remove systemic barriers so that persons of all identities, including race, ethnicity, religion, gender and gender identity, age, class, sexual identity, mental and physical abilities, and ability can fully participate in City services and experience equitable community outcomes.
- Neighborhood Livability and Social Health 1.5 – Enhance the quality of life and sense of belonging in neighborhoods by connecting neighbors to City services, building community, and fostering harmonious relationships.
- Neighborhood Livability and Social Health 1.8 – Preserve and enhance mobile home parks as a source of affordable housing and create a safe and equitable environment for residents.

### **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

---

The Affordable Housing Board discussed the opportunity to purchase Parklane MHP at its April 7, 2022, meeting and supported the efforts of UN/VU to acquire the park. See Minutes and Memorandum. This was also discussed at the September 1, 2022 Council Finance Committee meeting. See Minutes.

### **CITY FINANCIAL IMPACTS**

---

This Ordinance will appropriate \$125,000 of General Fund Reserves to be provided to UV/VU to be used to partially offset the cost of infrastructure upgrades. It can be used for tree maintenance or removal, repairing or replacing water and/or sewer pipes, replacement of asphalt or concrete, or repairing concrete or curbs.

### **PUBLIC OUTREACH**

---

All meetings of the Affordable Housing Board, the Council Finance Committee, and the City Council where this was discussed were open to the public. No additional outreach was conducted on this request.

### **ATTACHMENTS**

---

First reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 098, 2022  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PRIOR YEAR RESERVES IN THE GENERAL FUND TO PROVIDE  
FINANCIAL SUPPORT TO THE UNITED NEIGHBORS/VECINOS UNIDOS FOR THE  
NUEVA VIDA MOBILE HOME PARK

WHEREAS, the residents of Parklane Mobile Home Park, located in the City's growth management area (the "Park"), were recently able to organize and purchase the Park with financial assistance from Impact Development Fund, Bohemian Foundation, and Larimer County; and

WHEREAS, the Park, now owned by United Neighbors/Vecinos Unidos ("UN/VU"), a 501(c)(3) non-profit corporation, has been renamed Nueva Vida Mobile Home Park; and

WHEREAS, UN/VU is seeking City funding of \$125,000 to put towards approximately \$1,000,000 in urgent and necessary infrastructure repairs to the Park including tree maintenance and removal, water and sewer pipes, and asphalt and concrete work; and

WHEREAS, at the City Council meeting on April 5, 2022, several City Councilmembers asked staff to examine possible options to support the residents' purchase of the Park; and

WHEREAS, the Affordable Housing Board discussed the opportunity for the residents to purchase the Park at its April 7, 2022 meeting and supported the efforts of UN/VU to acquire the Park; and

WHEREAS, this funding request was further discussed by the Council Finance Committee at its meeting on September 1, 2022; and

WHEREAS, the funding would be provided and managed as a grant from the City to UN/VU pursuant to a grant agreement administered by the City's Neighborhood Services Department (the "Agreement"); and

WHEREAS, the Agreement would require UN/VU to use City-approved vendors, wherever possible, for work paid for with City funds, to ensure vendors are qualified, and properly licensed and insured; and

WHEREAS, the City would reimburse UN/VU for work completed until all funds have been expended, with a deadline of December 31, 2023 for expenditure of the City funds; and

WHEREAS, this appropriation benefits the public health, safety and welfare of the residents of Fort Collins and serves the public purpose of preserving the long-term affordability and condition of existing housing stock in the Fort Collins area, including mobile home parks; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves

accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby appropriates from prior year reserves in the General Fund the sum of ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$125,000) to be expended in the General Fund for providing financial support to the United Neighbors/Vecinos Unidos for the Nueva Vida Mobile Home Park.

Section 3. That the City Council hereby authorizes the City Manager to execute an Agreement with UN/VU for expenditure of the funds appropriated herein on terms and conditions consistent with this Ordinance, together with such other terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City and carry out the intent of this Ordinance.

Introduced, considered favorably on first reading and ordered published this 20th day of September, A.D. 2022, and to be presented for final passage on the 4th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading this 4th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

October 4, 2022

# AGENDA ITEM SUMMARY

City Council




---

## STAFF

Kai Kleer, City Planner  
Brad Yatabe, Legal

---

## SUBJECT

**Second Reading of Ordinance No. 099, 2022, Annexing the Property Known as the Peakview Annexation No. 1 to the City of Fort Collins, Colorado.**

---

## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on September 20, 2022, annexes a 5.78-acre portion of private property that will be used for the construction of Greenfields Drive, a future arterial street within the East Mulberry Corridor. The property to be annexed is a portion of the property subject to the Peakview Planned Land Division (“PLD”) development application which is currently being processed by Larimer County and is expected to be approved prior to completion of this annexation. The remaining property subject to the PLD is expected to petition for annexation as a condition of the County’s approval. The Initiating Resolution for this annexation was adopted on August 16, 2022. A related item to zone the annexed property is presented as the next item on this agenda.

*This Annexation request is in conformance with State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins Comprehensive Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreements.*

---

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

---

## BACKGROUND / DISCUSSION

### Contiguity

The subject property gains the required one-sixth contiguity to existing City limits from a common boundary on two sides with Springer Fisher Annexation which was annexed in 2001. As a result, there is 39.70% of the total perimeter contiguous to the existing municipal boundary which exceeds the required minimum (16.66%).

## Enclave Implications

Annexing the 5.78-acre property does not create or contribute to creating an enclave and is a logical extension of municipal boundaries.

## CITY FINANCIAL IMPACTS

---

There are no City financial impacts related to this annexation.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

---

At its August 18, 2022, regular meeting, the Planning and Zoning Commission voted 7-0 to recommend approval of the annexation. Further, the Commission recommended that the land be placed into the General Commercial, Neighborhood Commercial, and Low Density Mixed Use Neighborhood zone districts. This unanimous action was taken as part of the Commission's consent agenda; therefore, there are no minutes.

## PUBLIC OUTREACH

---

Given that the future use of the land area will be solely used for the purposes of constructing a street, there was no neighborhood meeting for this annexation and zoning. All applicable mailings and postings per Section 2.9 (Amending the Zoning Map) and 2.12 (Annexation of Land) of the Land Use Code have been followed.

## ATTACHMENTS

---

First reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 099, 2022  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
ANNEXING THE PROPERTY KNOWN AS THE  
PEAKVIEW ANNEXATION NO. 1  
TO THE CITY OF FORT COLLINS, COLORADO

WHEREAS, on August 16, 2022, City Council adopted Resolution 2022-082 finding substantial compliance and initiating annexation proceedings for the Peakview Annexation No. 1, as defined therein and described below; and

WHEREAS, Resolution 2022-099 setting forth findings of fact and determinations regarding the Peakview Annexation No. 1 was adopted concurrently with the first reading of this Ordinance; and

WHEREAS, the City Council has determined that it is in the best interests of the City to annex the property to be known as the Peakview Annexation No. 1 as described below (the "Property") to the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby incorporates the findings of Resolution 2022-082 and Resolution 2022-099 and further finds that it is in the best interests of the City to annex the Property to the City.

Section 3. That the Property, more particularly described as:

A PARCEL OF LAND LOCATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PM, COUNTY OF LARIMER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTH LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH P.M., BEING MONUMENTED BY A 2-1/2" ALUMINUM CAP STAMPED "LS 23503" AT THE WEST END AND A 2-1/2" ALUMINUM CAP STAMPED "LS 22573" AT THE EAST END, SAID LINE BEING ASSUMED TO BEAR S89°11'21"E.

BEGINNING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 9;

THENCE ON THE NORTH LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 9, S88°55'11"E A DISTANCE OF 42.00 FEET;

THENCE DEPARTING SAID NORTH LINE, THE FOLLOWING THIRTY-EIGHT (38) COURSES:

1. S00°14'19"W A DISTANCE OF 827.07 FEET, TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 84.00 FEET, A CENTRAL ANGLE OF 11°15'25" AND AN ARC LENGTH OF 16.50 FEET, TO A POINT OF TANGENT;
3. S11°01'07"E A DISTANCE OF 41.76 FEET, TO A POINT OF CURVE;
4. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 116.00 FEET, A CENTRAL ANGLE OF 11°15'25" AND AN ARC LENGTH OF 22.79 FEET, TO A POINT OF TANGENT;
5. S00°14'19"W A DISTANCE OF 75.11 FEET, TO A POINT OF CURVE;
6. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 166.00 FEET, A CENTRAL ANGLE OF 06°41'42" AND AN ARC LENGTH OF 19.40 FEET, TO A POINT OF TANGENT;
7. S06°56'01"W A DISTANCE OF 85.38 FEET, TO A POINT OF CURVE;
8. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 134.00 FEET, A CENTRAL ANGLE OF 06°41'42" AND AN ARC LENGTH OF 15.66 FEET, TO A POINT OF TANGENT;
9. S00°14'19"W A DISTANCE OF 182.11 FEET, TO A POINT OF CURVE;
10. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 84.00 FEET, A CENTRAL ANGLE OF 09°54'53" AND AN ARC LENGTH OF 14.54 FEET, TO A POINT OF TANGENT;
11. S09°40'35"E A DISTANCE OF 52.35 FEET, TO A POINT OF CURVE;
12. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 116.00 FEET, A CENTRAL ANGLE OF 09°54'53" AND AN ARC LENGTH OF 2007 FEET, TO A POINT OF TANGENT;
13. S00°14'19"W A DISTANCE OF 102.11 FEET, TO A POINT OF CURVE;
14. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 166.00 FEET, A CENTRAL ANGLE OF 06°23'15" AND AN ARC LENGTH OF 18.51 FEET, TO A POINT OF TANGENT;
15. S06°37'34"W A DISTANCE OF 78.77 FEET, TO A POINT OF CURVE;
16. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 134.00 FEET, A CENTRAL ANGLE OF 09°33'20" AND AN ARC LENGTH OF 22.35 FEET, TO A POINT OF REVERSE CURVE;
17. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 1,033.00 FEET, A CENTRAL ANGLE OF 09°59'32" AND AN ARC LENGTH OF 180.15 FEET, TO A POINT OF COMPOUND CURVE
18. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 84.00 FEET, A CENTRAL ANGLE OF 11°47'15" AND AN ARC LENGTH OF 17.28 FEET, TO A POINT OF TANGENT;
19. S24°42'34"E A DISTANCE OF 43.84 FEET, TO A POINT OF NON-TANGENT CURVE;
20. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS S64°54'15"W, HAVING A RADIUS OF 108.19 FEET, A CENTRAL ANGLE OF 10°37'19" AND AN ARC LENGTH OF 20.06 FEET, TO A POINT OF NON-TANGENT;
21. S14°51'36"E A DISTANCE OF 50.10 FEET;
22. S13°42'52"E A DISTANCE OF 50.01 FEET;
23. S14°51'36"E A DISTANCE OF 36.74 FEET;



24. S14°51'36"E A DISTANCE OF 47.62 FEET, TO A POINT OF CURVE;
  25. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 2000 FEET, A CENTRAL ANGLE OF 03°07'00" AND AN ARC LENGTH OF 1.09 FEET, TO A POINT OF REVERSE CURVE;
  26. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 129.00 FEET, A CENTRAL ANGLE OF 08°04'32" AND AN ARC LENGTH OF 18.18 FEET, TO A POINT OF TANGENT;
  27. S19°49'08"E A DISTANCE OF 108.53 FEET, TO A POINT OF CURVE;
  28. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 179.00 FEET, A CENTRAL ANGLE OF 01 °22'20" AND AN ARC LENGTH OF 4.29 FEET, TO A POINT OF TANGENT;
  29. S21°11'28"E A DISTANCE OF 91.99 FEET, TO A POINT OF CURVE;
  30. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 49.00 FEET, A CENTRAL ANGLE OF 62°31'40" AND AN ARC LENGTH OF 53.47 FEET, TO A POINT OF REVERSE CURVE;
  31. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 541.00 FEET, A CENTRAL ANGLE OF 05°46'51" AND AN ARC LENGTH OF 54.58 FEET, TO A POINT OF COMPOUND CURVE;
  32. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 291.00 FEET, A CENTRAL ANGLE OF 09°27'22" AND AN ARC LENGTH OF 48 03 FEET, TO A POINT OF COMPOUND CURVE;
  33. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 29.00 FEET, A CENTRAL ANGLE OF 17°32'15" AND AN ARC LENGTH OF 8.88 FEET, TO A POINT OF TANGENT;
  34. S50°56'41"E A DISTANCE OF 28.81 FEET, TO A POINT OF CURVE;
  35. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 2000 FEET, A CENTRAL ANGLE OF 09°31'31" AND AN ARC LENGTH OF 3.32 FEET, TO A POINT OF REVERSE CURVE;
  36. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 283.00 FEET, A CENTRAL ANGLE OF 25°29'51" AND AN ARC LENGTH OF 125.94 FEET, TO A POINT OF TANGENT;
  37. S34°58'22"E A DISTANCE OF 155.19 FEET, TO A POINT OF CURVE;
  38. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 21700 FEET, A CENTRAL ANGLE OF 48°41'45" AND AN ARC LENGTH OF 184.43 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF EAST MULBERRY STREET AND A POINT OF NON-TANGENT;
- HENCE ON SAID NORTHERLY RIGHT-OF-WAY LINE, N89°11'21"W A DISTANCE OF 161.98 FEET, TO A POINT OF NON-TANGENT CURVE;
- THENCE DEPARTING SAID NORTHERLY RIGHT-OF-WAY LINE, THE FOLLOWING SIXTEEN (16) COURSES:
1. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N41°03'41"E, HAVING A RADIUS OF 283.00 FEET, A CENTRAL ANGLE OF 13°57'58" AND AN ARC LENGTH OF 68.98 FEET, TO A POINT OF TANGENT;
  2. N34°58'22"W A DISTANCE OF 155.19 FEET, TO A POINT OF CURVE;

3. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 217.00 FEET, A CENTRAL ANGLE OF 12°12'50" AND AN ARC LENGTH OF 46.26 FEET, TO A POINT OF COMPOUND CURVE;
4. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 2000 FEET, A CENTRAL ANGLE OF 19°54'23" AND AN ARC LENGTH OF 6.95 FEET, TO A POINT OF TANGENT;
5. N67°05'34"W A DISTANCE OF 29.69 FEET, TO A POINT OF CURVE;
6. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 29.00 FEET, A CENTRAL ANGLE OF 07° 34'05" AND AN ARC LENGTH OF 3.83 FEET, TO A POINT OF REVERSE CURVE;
7. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 189.00 FEET, A CENTRAL ANGLE OF 15°18'19" AND AN ARC LENGTH OF 50.49 FEET, TO A POINT OF COMPOUND CURVE;
8. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 409.00 FEET, A CENTRAL ANGLE OF 17°14'40" AND AN ARC LENGTH OF 123.10 FEET, TO A POINT OF COMPOUND CURVE;
9. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 54.00 FEET, A CENTRAL ANGLE OF 43°02'58" AND AN ARC LENGTH OF 40.57 FEET, TO A POINT OF COMPOUND CURVE;
10. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 79.00 FEET, A CENTRAL ANGLE OF 50°07'19" AND AN ARC LENGTH OF 69.11 FEET, TO A POINT OF TANGENT;
11. S05°14'45"E A DISTANCE OF 94.32 FEET, TO A POINT OF CURVE;
12. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 1000 FEET, A CENTRAL ANGLE OF 35°00'00" AND AN ARC LENGTH OF 6.11 FEET, TO A POINT OF NON-TANGENT REVERSE CURVE;
13. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS S56°47'06"E, HAVING A RADIUS OF 1012 FEET, A CENTRAL ANGLE OF 38°04'04" AND AN ARC LENGTH OF 6.73 FEET, TO A POINT OF NON-TANGENT REVERSE CURVE;
14. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS S85°00'07"W, HAVING A RADIUS OF 517.00 FEET, A CENTRAL ANGLE OF 05°14'12" AND AN ARC LENGTH OF 47.25 FEET, TO A POINT OF TANGENT;
15. S00°14'19"W A DISTANCE OF 11.14 FEET, TO A POINT OF NON-TANGENT CURVE;
16. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N89°37'29"E, HAVING A RADIUS OF 30.51 FEET, A CENTRAL ANGLE OF 28°12'43" AND AN ARC LENGTH OF 15.02 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID EAST MULBERRY STREET AND A POINT OF NON-TANGENT;

THENCE ON SAID NORTHERLY RIGHT-OF-WAY LINE, N89°11'21"W A DISTANCE OF 154.79 FEET, TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 9;  
 THENCE ON SAID WEST LINE, N00°14'19"E A DISTANCE OF 2,604.37 FEET, TO THE POINT OF BEGINNING. CONTAINING A CALCULATED AREA OF 251,753 SQUARE FEET OR 5.7794 ACRES

is hereby annexed to the City of Fort Collins and made a part of said City, to be known as the Peakview Annexation No. 1, which annexation shall become effective upon completion of the conditions contained in Colorado Revised Statutes (“C.R.S.”) Section 31-12-113, including, without limitation, all required filings for recording with the Larimer County Clerk and Recorder.

Section 4. That, in annexing the Property to the City, the City does not assume any obligation respecting the construction of water mains, sewer lines, gas mains, electric service lines, streets or any other services or utilities in connection with the Property hereby annexed except as may be provided by ordinances of the City.

Section 5. That the City hereby consents, pursuant to C.R.S. Section 37-45-136(3.6), to the inclusion of the Property into the Municipal Subdistrict, Northern Colorado Water Conservancy District.

Introduced, considered favorably on first reading and ordered published this 20th day of September, A.D. 2022, and to be presented for final passage on the 4th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading this 4th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

October 4, 2022



## AGENDA ITEM SUMMARY

City Council

### STAFF

Kai Kleer, City Planner  
Brad Yatabe, Legal

### SUBJECT

**Second Reading of Ordinance No. 100, 2022, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Peakview Annexation No. 1 to the City of Fort Collins and Approving Corresponding Changes to the Residential Neighborhood Sign District Map and Lighting Context Area Map.**

### EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on September 20, 2022, zones the property included in the Peakview Annexation No. 1 Annexation into the General Commercial (C-G), Neighborhood Commercial (N-C) and Medium Density Mixed Use Neighborhood (MMN) zone districts and placement into the LC1 and LC2 Lighting Context Areas.

*This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 2(d) of the Council's Rules of Meeting Procedures most recently adopted in Resolution 2022-068.*

### STAFF RECOMMENDATION

Staff recommend adoption of the ordinance on Second Reading.

### BACKGROUND / DISCUSSION

The requested zoning for this annexation is General Commercial (C-G), Neighborhood Commercial (N-C) and Medium Density Mixed Use Neighborhood (MMN) which conforms to the adjacent zoning of the Springer Fisher property which was annexed into the City in 2021.

#### Context

The surrounding zoning and land uses are as follows:

Direction	Zone District	Existing Land Use
N	Low Density Mixed Use Neighborhood (LMN)	Agriculture
S	Commercial Corridor (Larimer County)	E Mulberry Street / Greenfields Court

Direction	Zone District	Existing Land Use
E	Commercial Corridor (Larimer County)	Agriculture
W	General Commercial (C-G) Neighborhood Commercial (NC) Medium Density Mixed-Use Neighborhood.	Agriculture

**City of Fort Collins Structure Plan**

The Structure Plan map shows the area within the Peakview property as a combination of Mixed Neighborhood, Suburban Mixed Use, and Neighborhood Mixed Use designations (see attached Structure Plan map). The Structure Plan future land use designations represent general citywide policy guidance. The Land Use Code does not include zoning to reflect these new designations in *City Plan* and specifically states that where there are conflicts with *City Plan* and an overlapping subarea plan, that the subarea plan shall prevail. In this case, the *East Mulberry Corridor Plan (EMCP)*, which is a subarea plan and is further discussed below, reflects more detailed and specific land use policy guidance than *City Plan*.

**East Mulberry Corridor Plan (EMCP)**

The EMCP includes four future land use designations within the Peakview property, including General Commercial (C-G), Neighborhood Commercial (N-C), Employment (E), and Medium Density Mixed-Use Neighborhood (M-M-N). These designations reflect the policy direction of the plan for a commercial mixed-use district and supporting higher-density mixed-use neighborhoods within walking distance to the commercial hub located northwest of the East Mulberry and Greenfields Court intersection (see attached EMCP map).

The proposed Peakview Annexation No. 1 proposes zoning consistent with the EMCP and matches that of the adjacent property that was annexed and zoned as part of the Springer Fisher Annexation.

**Residential Sign District**

Staff recommends that the portion of the property with the MMN zone district designation be placed in the Residential Neighborhood Sign District and that the portion of the property with the C-G and N-C zone district designations be placed in the Non-Residential Sign District. The Sign Districts are established for the purpose of regulating signs for non-residential uses in areas of the community where the predominant character of the neighborhood is residential.

**Lighting Context Area**

On March 26, 2021, the City of Fort Collins adopted new exterior lighting standards and established Lighting Context Areas that correspond to the City’s zone districts. The corresponding districts identified by Table 3.2.4-1 of the City’s lighting code are LC1 and LC2. As part of this item, staff recommends placement of the portion of the property to be zoned M-M-N into the LC1 Lighting Context Area and the portion of the property to be zoned N-C and C-G into the LC2 Lighting Context Areas as indicated by the attached Lighting District map. The following are how each respective district is described:

- LC1 - Low ambient lighting. The vision of human residents and users is adapted to low light levels. Lighting may be used for safety and convenience, but it is not necessarily uniform or continuous. Typical locations include low and medium density residential areas, commercial or industrial areas with limited nighttime activity, and the developed areas in parks and other natural setting.

- LC2 - Moderate ambient lighting. Areas of human activity where the vision of human residents and users is adapted to moderate light levels. Lighting may typically be used for safety and convenience, but it is not necessarily uniform or continuous. Typical locations include high density residential areas, shopping and commercial districts, industrial parks and districts, City playfields and major institutional uses, and mixed-use districts.

## **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

---

At its August 18, 2022 regular meeting, the Planning and Zoning Commission voted 7-0 to recommend approval of the annexation. Further, the Commission recommended that the land be placed into the General Commercial, Neighborhood Commercial, and Low Density Mixed Use Neighborhood zone districts. This unanimous action was taken as part of the Commission's consent agenda; therefore, there are no minutes.

## **CITY FINANCIAL IMPACTS**

---

There are no City financial impacts related to the zoning of the subject property.

## **PUBLIC OUTREACH**

---

Given that the future use of the land area will be solely used for the purposes of constructing a street, there was no neighborhood meeting for this annexation and zoning. All applicable mailings and postings per Section 2.9 (Amending the Zoning Map) and 2.12 (Annexation of Land) of the Land Use Code have been followed.

## **ATTACHMENTS**

---

First reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 100, 2022  
 OF THE COUNCIL OF THE CITY OF FORT COLLINS  
 AMENDING THE ZONING MAP OF THE CITY OF FORT COLLINS  
 AND CLASSIFYING FOR ZONING PURPOSES THE PROPERTY INCLUDED  
 IN THE PEAKVIEW ANNEXATION NO. 1 TO THE  
 CITY OF FORT COLLINS, COLORADO,  
 AND APPROVING CORRESPONDING CHANGES TO THE RESIDENTIAL  
 NEIGHBORHOOD SIGN DISTRICT MAP AND LIGHTING CONTEXT AREA MAP

WHEREAS, on October 4, 2022, the City Council adopted on second reading Ordinance No. 099, 2022, annexing to the City of Fort Collins the property known as the Peakview Annexation No. 1 (the “Property”); and

WHEREAS, Division 1.3 of the Land Use Code of the City of Fort Collins establishes the Zoning Map and Zone Districts of the City; and

WHEREAS, Division 2.9 of the Land Use Code of the City of Fort Collins establishes procedures and criteria for reviewing the zoning of land; and

WHEREAS, pursuant to Land Use Code Section 2.9.2, the City Planning and Zoning Commission, at its meeting on August 18, 2022, unanimously recommended zoning the Property to be known as the Peakview Annexation No. 1 (the “Property”) as General Commercial (“C-G”) Zone District; Medium Density Mixed-Use Neighborhood (“M-M-N”) Zone District; and Neighborhood Commercial (“N-C”) Zone District, as more particularly described below and determined that the proposed zonings are consistent with the City’s Comprehensive Plan; and

WHEREAS, the City Council has determined that the proposed zonings of the Property are consistent with the City’s Comprehensive Plan; and

WHEREAS, to the extent applicable, the City Council has also analyzed the proposed zonings against the applicable criteria set forth in Section 2.9.4(H)(3) of the Land Use Code and finds the proposed zonings to be in compliance with all such criteria; and

WHEREAS, in accordance with the foregoing, the City Council has considered the zonings of the Property as described below, finds it to be in the best interests of the City, and has determined that the Property should be zoned as hereafter provided.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the Zoning Map of the City of Fort Collins adopted pursuant to Section 1.3.2 of the Land Use Code of the City of Fort Collins is hereby changed and amended by including

the following portion of the Property in the General Commercial ("C-G") Zone District as more particularly described as:

COMMENCING AT THE NORTHWEST CORNER OF THE EAST 1/2, OF THE SOUTHWEST 1/4 OF SAID SECTION 9;

THENCE ON THE WEST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 9, S00°14'19"W A DISTANCE OF 1981.03 FEET TO THE POINT OF BEGINNING;

THENCE S89°59'11"E A DISTANCE OF 135.68 FEET;

THENCE S14°51'36"E A DISTANCE OF 44.23 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 03°07'00" AND AN ARC LENGTH OF 1.09 FEET, TO A POINT OF REVERSE CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 129.00 FEET, A CENTRAL ANGLE OF 08°04'32" AND AN ARC LENGTH OF 18.18 FEET, TO A POINT OF TANGENT;

THENCE S19°49'08"E A DISTANCE OF 108.53 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 179.00 FEET, A CENTRAL ANGLE OF 01°22'20" AND AN ARC LENGTH OF 4.29 FEET, TO A POINT OF TANGENT;

THENCE S21°11'28"E A DISTANCE OF 91.99 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 49.00 FEET, A CENTRAL ANGLE OF 62°31'40" AND AN ARC LENGTH OF 53.47 FEET, TO A POINT OF REVERSE CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 541.00 FEET, A CENTRAL ANGLE OF 05°46'51" AND AN ARC LENGTH OF 54.58 FEET, TO A POINT OF COMPOUND CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 291.00 FEET, A CENTRAL ANGLE OF 09°27'22" AND AN ARC LENGTH OF 48.03 FEET, TO A POINT OF COMPOUND CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 29.00 FEET, A CENTRAL ANGLE OF 17°32'15" AND AN ARC LENGTH OF 8.88 FEET, TO A POINT OF TANGENT;

THENCE S50°56'41"E A DISTANCE OF 28.81 FEET, TO A POINT OF CURVE;



THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 09°31'31" AND AN ARC LENGTH OF 3.32 FEET, TO A POINT OF REVERSE CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 283.00 FEET, A CENTRAL ANGLE OF 25°29'51" AND AN ARC LENGTH OF 125.94 FEET, TO A POINT OF TANGENT;

THENCE S34°58'22"E A DISTANCE OF 155.19 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 217.00 FEET, A CENTRAL ANGLE OF 48°41'45" AND AN ARC LENGTH OF 184.43 FEET, TO A POINT OF NON-TANGENT ON THE NORTHERLY RIGHT-OF-WAY LINE OF MULBERRY STREET;

THENCE ON SAID NORTHERLY RIGHT-OF-WAY LINE, N89°11'21"W A DISTANCE OF 161.98 FEET TO A POINT OF NON-TANGENT CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N41°03'41"E, HAVING A RADIUS OF 283.00 FEET, A CENTRAL ANGLE OF 13°57'58" AND AN ARC LENGTH OF 68.98 FEET, TO A POINT OF TANGENT;

THENCE N34°58'22"W A DISTANCE OF 155.19 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 217.00 FEET, A CENTRAL ANGLE OF 12°12'50" AND AN ARC LENGTH OF 46.26 FEET, TO A POINT OF COMPOUND CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 19°54'23" AND AN ARC LENGTH OF 6.95 FEET, TO A POINT OF TANGENT;

THENCE N67°05'34"W A DISTANCE OF 29.69 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 29.00 FEET, A CENTRAL ANGLE OF 07°34'05" AND AN ARC LENGTH OF 3.83 FEET, TO A POINT OF REVERSE CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 189.00 FEET, A CENTRAL ANGLE OF 15°18'19" AND AN ARC LENGTH OF 50.49 FEET TO A POINT OF COMPOUND CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 409.00 FEET, A CENTRAL ANGLE OF 17°14'40" AND AN ARC LENGTH OF 123.10 FEET, TO A POINT OF COMPOUND CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 54.00 FEET, A CENTRAL ANGLE OF 43°02'58" AND AN ARC LENGTH OF 40.57 FEET, TO A POINT OF COMPOUND CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 79.00 FEET, A CENTRAL ANGLE OF 50°07'19" AND AN ARC LENGTH OF 69.11 FEET, TO A POINT OF TANGENT;

THENCE S05°14'45"E A DISTANCE OF 94.32 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 10.00 FEET, A CENTRAL ANGLE OF 35°00'00" AND AN ARC LENGTH OF 6.11 FEET, TO A POINT OF NON-TANGENT REVERSE CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS S56°47'06"E, HAVING A RADIUS OF 10.12 FEET, A CENTRAL ANGLE OF 38°04'04" AND AN ARC LENGTH OF 6.73 FEET, TO A POINT OF NON-TANGENT REVERSE CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS S85°00'07"W, HAVING A RADIUS OF 517.00 FEET, A CENTRAL ANGLE OF 05°14'12" AND AN ARC LENGTH OF 47.25 FEET, TO A POINT OF TANGENT;

THENCE S00°14'19"W A DISTANCE OF 11.14 FEET, TO A POINT OF NON-TANGENT CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N89°37'29"E, HAVING A RADIUS OF 30.51 FEET, A CENTRAL ANGLE OF 28°12'43" AND AN ARC LENGTH OF 15.02 FEET TO A POINT OF NON-TANGENT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID MULBERRY STREET;

THENCE ON SAID NORTHERLY RIGHT-OF-WAY LINE, N89°11'21"W A DISTANCE OF 154.79 FEET, TO A POINT ON THE WEST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 9;

THENCE ON SAID WEST LINE, N00°14'19"E A DISTANCE OF 623.34 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 148,324 SQUARE FEET OR 3.4050 ACRES.

Section 3. That the Zoning Map of the City of Fort Collins adopted pursuant to Section 1.3.2 of the Land Use Code of the City of Fort Collins is hereby changed and amended by including the following portion of the Property in the Medium Density Mixed-Use Neighborhood ("M-M-N") Zone District as more particularly described as:

BEGINNING AT THE NORTHWEST CORNER OF THE EAST 1/2, OF THE SOUTHWEST 1/4 OF SAID SECTION 9;

THENCE ON THE NORTH LINE OF SAID EAST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 9, S88°55'11"E A DISTANCE OF 42.00 FEET;

THENCE S00°14'19"W A DISTANCE OF 827.07 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 84.00 FEET, A CENTRAL ANGLE OF 11°15'25" AND AN ARC LENGTH OF 16.50 FEET, TO A POINT OF TANGENT;

THENCE S11°01'07"E A DISTANCE OF 41.76 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 116.00 FEET, A CENTRAL ANGLE OF 11°15'25" AND AN ARC LENGTH OF 22.79 FEET, TO A POINT OF TANGENT;

THENCE S00°14'19"W A DISTANCE OF 75.11 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 166.00 FEET, A CENTRAL ANGLE OF 06°41'42" AND AN ARC LENGTH OF 19.40 FEET, TO A POINT OF TANGENT;

THENCE S06°56'01"W A DISTANCE OF 85.38 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 134.00 FEET, A CENTRAL ANGLE OF 06°41'42" AND AN ARC LENGTH OF 15.66 FEET, TO A POINT OF TANGENT;

THENCE S00°14'19"W A DISTANCE OF 182.11 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 84.00 FEET, A CENTRAL ANGLE OF 09°54'53" AND AN ARC LENGTH OF 14.54 FEET, TO A POINT OF TANGENT;

THENCE S09°40'35"E A DISTANCE OF 22.45 FEET;

THENCE N89°03'37"W A DISTANCE OF 47.12 FEET, TO A POINT ON THE WEST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 9;

THENCE ON SAID WEST LINE, N00°14'19"E A DISTANCE OF 1320.69 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 57,671 SQUARE FEET OR 1.3239 ACRES.

Section 4. That the Zoning Map of the City of Fort Collins adopted pursuant to Section 1.3.2 of the Land Use Code of the City of Fort Collins is hereby changed and amended by including the following portion of the Property in the Neighborhood Commercial ("N-C") Zone District as more particularly described as:

COMMENCING AT THE NORTHWEST CORNER OF THE EAST 1/2, OF THE SOUTHWEST 1/4 OF SAID SECTION 9;

THENCE ON THE WEST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 9, S00°14'19"W A DISTANCE OF 1320.69 FEET TO THE POINT OF BEGINNING;

THENCE S89°03'37"E A DISTANCE OF 47.12 FEET;

THENCE S09°40'35"E A DISTANCE OF 29.90 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 116.00 FEET, A CENTRAL ANGLE OF 09°54'53" AND AN ARC LENGTH OF 20.07 FEET, TO A POINT OF TANGENT;

THENCE S00°14'19"W A DISTANCE OF 102.11 FEET, TO A POINT OF CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 166.00 FEET, A CENTRAL ANGLE OF 06°23'15" AND AN ARC LENGTH OF 18.51 FEET, TO A POINT OF TANGENT;

THENCE S06°37'34"W A DISTANCE OF 78.77 FEET, TO A POINT OF NON-TANGENT CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 134.00 FEET, A CENTRAL ANGLE OF 09°33'20" AND AN ARC LENGTH OF 22.35 FEET, TO A POINT OF COMPOUND CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 1033.00 FEET, A CENTRAL ANGLE OF 09°59'32" AND AN ARC LENGTH OF 180.15 FEET, TO A POINT OF COMPOUND CURVE;

THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 84.00 FEET, A CENTRAL ANGLE OF 11°47'15" AND AN ARC LENGTH OF 17.28 FEET, TO A POINT OF TANGENT;

THENCE S24°42'34"E A DISTANCE OF 43.84 FEET, TO A POINT OF NON-TANGENT CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS S64°54'15"W, HAVING A RADIUS OF 108.19 FEET, A CENTRAL ANGLE OF 10°37'19" AND AN ARC LENGTH OF 20.06 FEET, TO A POINT OF NON-TANGENT;

THENCE S14°51'36"E A DISTANCE OF 50.10 FEET;

THENCE S13°42'52"E A DISTANCE OF 50.01 FEET;

THENCE S14°51'36"E A DISTANCE OF 36.74 FEET;

THENCE S14°51'36"E A DISTANCE OF 3.39 FEET;

THENCE N89°59'11"W A DISTANCE OF 135.68 FEET, TO A POINT ON THE WEST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 9;

THENCE ON SAID WEST LINE, N00°14'19"E A DISTANCE OF 660.34 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 45,758 SQUARE FEET OR 1.0505 ACRES.

Section 5. That the Sign District Map adopted pursuant to Section 3.8.7.1(M) of the Land Use Code of the City of Fort Collins is hereby changed and amended by showing that only the Property zoned as "M-M-N" is included in the Residential Neighborhood Sign District.

Section 6. That the Lighting Context Area Map adopted pursuant to Section 3.2.4(H) of the Land Use Code of the City of Fort Collins is hereby changed and amended by showing that the Property zoned as "M-M-N" is included in the LC1 Lighting Context Area and the Property zoned as "N-C" and "C-G" are included in the LC2 Lighting Context Area.

Section 7. That the City Manager is hereby authorized and directed to amend said Zoning Map in accordance with this Ordinance.

Introduced, considered favorably on first reading and ordered published this 20th day of September, A.D. 2022, and to be presented for final passage on the 4th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading this 4th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

October 4, 2022

# AGENDA ITEM SUMMARY

City Council



## STAFF

Sue Beck-Ferkiss, Social Policy and Housing Programs Manager  
Ingrid Decker, Legal

## SUBJECT

**Second Reading of Ordinance No. 101, 2022, Authorizing the Release of a Restrictive Covenant on Property at 331 North Howes Street Owned by Villages, Ltd.**

## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on September 20, 2022, authorizes the release of the Agreement of Restrictive Covenants Affecting Real Property for the property located at 331 North Howes Street. This property is owned by Villages, Ltd, a 501(c)(3) non-profit corporation managed by Housing Catalyst. In exchange for repaying the original \$3,000 in Community Development Block Grant (CDBG) loan funds, the City will allow early release of a restrictive covenant which would otherwise expire in 2023.

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

## BACKGROUND / DISCUSSION

Over the last decade, Villages, Ltd., a 501(c)(3) affordable housing non-profit managed by Housing Catalyst, f/k/a/ the Fort Collins Housing Authority (FCHA), the City's housing authority, has been liquidating aging, scattered site, single family homes and duplexes from its portfolio due to the high operating and maintenance costs associated with this type of housing. Upon sale, the proceeds leverage funding to preserve multifamily housing and to build additional new affordable housing in Fort Collins.

On October 1, 2001, FCHA received a grant from the City of \$174,931 in CDBG funding to rehabilitate 41 rental dwelling units in 11 buildings. At the completion of the rehabilitation projects, FCHA recorded a Restrictive Covenant on all 41 units, enforceable by the City, requiring FCHA to maintain the units as affordable rental housing for twenty years.

- The property at 331 North Howes Street is one of these buildings. This Covenant is scheduled to be released on October 1, 2023, which is 20 years from project completion.
- Seven of the properties encumbered by this Covenant have already repaid their portion of the grant and the City has released the Covenant with respect to those properties. They have been sold with the sales proceeds leveraged into multifamily housing that is more efficient and easier to maintain long-term. This happened over time, starting in 2009 and through 2013.
- The remaining three properties are multifamily units that will remain in the restricted inventory.

The property located at 331 North Howes Street received \$3,000 of the initial grant for building rehabilitation. See attached map. This property currently has extensive long-term capital needs. (Attachment 2-3). It is currently vacant. It is in a desirable location and close to other public housing that has been sold. The affordable rent structure does not support the ongoing operations of this property. For that reason, Villages, Ltd., through Housing Catalyst, has offered to repay the \$3,000 City investment in exchange for the early release of the Restrictive Covenant, which would otherwise expire in October of 2023. See attached Request to Release Restrictive Covenants. The funding returned to the City would be added to the funds distributed in Social Sustainability's annual competitive grant process.

Villages, Ltd. is currently strategically liquidating inventory, such as this single family scattered-site home, that are hard to operate as affordable rentals. Housing Catalyst has not specifically identified a buyer for this property. Housing Catalyst is selling some of its public housing units to Elevation Community Land Trust to provide permanently affordable for-sale affordable homes and continues to communicate with Elevation about properties that fit Elevation's requirements when liquidating inventory. Regardless, Housing Catalyst will select the buyer based on furthering its mission while meeting the needs of the community. Sales proceeds will be used to leverage funding for Housing Catalyst's extensive pipeline of both rehabilitation projects and new construction of affordable housing.

### **CITY FINANCIAL IMPACTS**

---

The removal of the Restrictive Covenant one year prior to original expiration will initially result in the loss of one single family unit of affordable housing; however, Villages, Ltd. is not currently leasing the unit because of its condition. The \$3,000 repayment of Community Development Block Grant funding will be returned to the City's Competitive Grant Process and will be available to fund future affordable housing projects. Approval of this request will lessen the financial burden experienced by Villages, Ltd., related to the operation of a scattered-site single family unit with extensive long-term capital needs.

### **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

---

The Affordable Housing Board supports this request.

### **PUBLIC OUTREACH**

---

The Affordable Housing Board meeting where this was discussed was open to the public. No additional public outreach was done for this request.

### **ATTACHMENTS**

---

First reading attachments not included.

1. Ordinance for Consideration



ORDINANCE NO. 101, 2022  
 OF THE COUNCIL OF THE CITY OF FORT COLLINS  
 AUTHORIZING THE RELEASE OF A RESTRICTIVE COVENANT ON PROPERTY  
 AT 331 NORTH HOWES STREET OWNED BY VILLAGES, LTD.

WHEREAS, on October 1, 2001, the City entered into a Recipient Contract with the Fort Collins Housing Authority, now known as Housing Catalyst (“FCHA”), through which FCHA received a grant from the City of \$174,931 in Community Development Block Grant (CDBG) funds to rehabilitate 41 affordable rental housing units in eleven buildings in Fort Collins (the “Project”); and

WHEREAS, as required by the Recipient Contract, at the completion of the Project FCHA recorded a Restrictive Covenant enforceable by the City on all the units in the Project, requiring the units to remain affordable for twenty years (the “Covenant”); and

WHEREAS, the Covenant is set to expire in October 2023; and

WHEREAS, FCHA used \$3,000 of the grant proceeds to make improvements to a single-family rental property located at 331 North Howes Street (the “Property”); and

WHEREAS, the Property is owned by Villages, Ltd., a 501(c)(3) corporation managed by FCHA; it is currently vacant and has extensive long-term capital needs; and

WHEREAS, the Recipient Contract does not require repayment of the grant funds, but Villages, Ltd. has offered to repay the City’s \$3,000 investment in the Property in exchange for the early release of the Covenant on the Property so that FCHA can sell the Property and use the proceeds for other multifamily housing; and

WHEREAS, the City would add the repaid grant funding to the funds distributed through the Social Sustainability’s annual competitive grant process; and

WHEREAS, the City’s right under the Covenant to restrict the use of the Property constitutes an interest in real property owned by the City that the City would be giving up by releasing the Covenant; and

WHEREAS, Section 23-111(a) of the City Code states that the City Council is authorized to sell, convey or otherwise dispose of any interest in real property owned by the City, provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City; and

WHEREAS, the Affordable Housing Board reviewed this request at its regular meeting on September 1, 2022, and voted to support the Council’s granting of this request.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby finds that releasing the Covenant on the Property on the terms and conditions described herein is in the best interests of the City.

Section 3. That the City Council hereby authorizes the City Manager to execute such documents as are necessary to release the Property from the Covenant upon repayment of the \$3,000 in CDBG funds, on terms and conditions consistent with this Ordinance, along with such other terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary and appropriate to protect the interests of the City or effectuate the purposes of this Ordinance.

Introduced, considered favorably on first reading and ordered published this 20th day of September, A.D. 2022, and to be presented for final passage on the 4th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading this 4th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

October 4, 2022

# AGENDA ITEM SUMMARY

City Council




---

## STAFF

Kelly DiMartino, City Manager  
 Travis Storin, Chief Financial Officer  
 Lawrence Pollack, Budget Director  
 John Duval, Legal

---

## SUBJECT

**Items Pertaining to the Annual Adjustment Ordinance.**

---

## EXECUTIVE SUMMARY

A. First Reading of Ordinance No. 102, 2022, Making Supplemental Appropriations from Various City Funds.

B. First Reading of Ordinance No. 103, 2022, Appropriating Prior Year Reserves in Various City Funds.

The purpose of these Annual Adjustment Ordinances is to appropriate dedicated and additional revenues or prior year reserves that need to be appropriated before the end of the year to cover related expenses that were not anticipated, and therefore, not included in the 2022 annual budget appropriation. The additional revenue is primarily from fees, charges for service, rents, contributions, donations, and grants that have been paid to City departments to offset specific expenses.

---

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinances on First Reading.

---

## BACKGROUND / DISCUSSION

These Ordinances appropriate additional revenue and funds received this fiscal year and from prior year reserves in various City funds and authorize the transfer of previously appropriated amounts between funds and/or capital projects. The City Charter permits Council at any time during a fiscal year to make supplemental appropriations of additional revenue and other funds received as a result of rate/fee increases or new revenue sources, such as grants and reimbursements. The Charter also permits Council to provide, by ordinance, for payment of any expense from prior year reserves through a supplemental appropriation. Additionally, it authorizes Council to transfer any unexpended and unencumbered appropriated amount from one fund or project to another fund or project upon recommendation of the City Manager, provided that the purpose for which the transferred funds are to be expended 1) remains unchanged; 2) the purpose for which they were initially appropriated no longer exists; or 3) the proposed transfer is from a Fund or project account in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance.

The City Manager is recommending the proposed appropriations in these Ordinances and has determined that they are available and previously unappropriated from their respective Funds and will not cause the total amount appropriated from such Funds to exceed the current estimate of actual and anticipated revenues and all other funds to be received in each such Fund during this fiscal year.

If these appropriations are not approved, the City will have to reduce expenditures even though revenue and reimbursements have been received to cover those expenditures.

The table below is a summary of the expenses in each fund that make up the increase in requested appropriations. Also included are transfers between funds of unappropriated funds which must be appropriated for expenditure but the transfer will be done administratively. A table with the specific use of prior year reserves appears at the end of this Agenda Item Summary.

Funding	Additional Revenue	Prior Year Reserves	TOTAL
General Fund	\$903,898	\$692,164	\$1,596,062
Data & Communications Fund	0	12,500	12,500
Equipment Fund	104,000	314,847	418,847
Sales & Use Tax Fund	48,076	0	48,076
Natural Areas Fund	48,076	0	48,076
Golf Fund	0	368,348	368,348
CCIP Fund	25,000	0	25,000
Cultural Services Fund	25,000	0	25,000
Water Fund	80,000	0	80,000
Light & Power Fund	4,500,000	0	4,500,000
Transportation Services Fund	442,094	0	442,094
<b>GRAND TOTAL</b>	<b>\$6,176,144</b>	<b>\$1,387,859</b>	<b>\$7,564,003</b>

**A. GENERAL FUND**

**1. Security Classes provided by Emergency Preparedness and Security (EPS)**

Revenue collected from security class participants is intended to help offset the cost of providing security training from FRCC for a 3-day Crime Prevention Through Environmental Design (CPTED) class in April and a 5-Day CPTED training in August 2022. This request includes revenue collected between December 2021 - July 2022 and helps offset all class incurred expenses for 2022. This model uses initial investment to prime the pump, using collected fees to supplement ongoing training.

FROM:	Prior Year Reserves (2021 class revenue)	\$13,621
FROM:	Unanticipated Revenue	\$14,290
FOR:	Security Classes	\$27,911

**2. Land Bank Operational Expenses**

This request is intended to cover expenses related to the land bank property maintenance needs for 2022. Since expenses vary from year to year, funding is requested annually mid-year to cover these costs. Expenses in 2022 include general maintenance of properties, raw water and sewer expenses, electricity, repairs, and other as applicable.

FROM:	Prior Year Reserves (Land Bank reserve)	\$2,750
FOR:	Land Bank Expenses	\$2,750

**3. Fort Collins Police Services (FCPS)** has received revenue from various sources. A listing of these items follows:

- a. \$36,516 – 2022/2023 BATTLE Grant (Beat Auto Theft Through Law Enforcement) Grant: Police Services was awarded a grant from the Colorado State Patrol to help prevent auto theft in Colorado.
- b. \$44,805 – 2022/2023 Black Market Marijuana Grant: Police Services was awarded the Marijuana grant to support the investigation and prosecution of black market or illegal marijuana cultivation and distribution in the city.
- c. \$75,152 – 2022 Body Worn Camera Grant: In December of 2021, Police Services was awarded a grant to help fund the upgrade of body worn cameras because of the passing of HB 21-1250. This item is to appropriate the money that was received in 2022.
- d. \$11,400 - 2022 Click it or Ticket Grant: In 2021 Police Services was awarded a Click it or Ticket Grant from the Colorado Department of Transportation to pay for officers to work overtime to conduct enforcement activities.
- e. \$7,868 - Contribution to Northern Colorado Drug Taskforce: As a part of the City of Fort Collins contribution to the Northern Colorado Drug Taskforce, any Drug Offender Surcharge, or Court Ordered Restitution that is remitted from Larimer County Court to Fort Collins Police, is then passed along to the NCDTF. Any additional restitution that is collected by FCPS is additionally passed along to the NCDTF.
- f. \$11,400 - 2021/2022 High Visibility Enforcement (HVE) Grant: Police Services was awarded a grant from the Law Enforcement Assistance Fund to pay for overtime for DUI enforcement.
- g. \$15,000 – 2022/2023 HVE Grant: Police Services was awarded a grant from the Law Enforcement Assistance Fund to pay for overtime for DUI enforcement
- h. \$7,682 – 2021 ICAC Grant (Internet Crimes Against Children): In June of 2021 Police Services was awarded the ICAC grant, but the corresponding appropriation was inadvertently excluded from last year's Annual Adjustment Ordinance.
- i. \$300,000 - Northern Colorado Regional Communication Network (NCRCN) Police Radios Upgrades and Repairs: Police Radios have been failing on an increasing level due to aging infrastructure for the Radio Towers in the surrounding area. Information Services is currently working with Motorola and Bearcom to assess the current need, which is still in process. This request is utilizing the dedicated reserves within the General Fund for NCRCN.
- j. \$208,465 - Police Reimbursable Overtime: Police Services help schedule security and traffic control for large events. Since these events are staffed by officers outside of their normal duties, officers are paid overtime. The organization who requested officer presence is then billed for the costs of the officers' overtime. Fort Collins Police Services (FCPS) partners with Larimer County to staff events at The Ranch. Police receives reimbursement from Larimer County for officers' hours worked at Ranch events.
- k. \$42,022 - School Resource Officers: Police Services have a contract with Poudre School District to provide officers on location at a majority of the schools for safety and support. The school district pays Police Services based on a predetermined contract amount and also partially reimbursing for overtime incurred. This request is for the previously billed overtime and anticipated overtime for the remaining year.
- l. \$8,962 - DUI Enforcement: Proceeds that have been received for DUI enforcement from Larimer County.

- m. \$96,243 - Police Miscellaneous Revenue: Police Services receives revenue from the sale of Police reports along with other miscellaneous revenue, like restitution payments, evidence revenue and SWAT training.

**TOTAL APPROPRIATION**

FROM:	Unanticipated Revenue (2022/2023 BATTLE Grant)	\$36,516
FROM:	Unanticipated Revenue (2022/2023 Black Market Marijuana Grant)	\$44,805
FROM:	Unanticipated Revenue (2022 Body Worn Camera Grant)	\$75,152
FROM:	Unanticipated Revenue (2022 Click it or Ticket Grant)	\$11,400
FROM:	Unanticipated Revenue (Northern Colorado Drug Taskforce)	\$7,868
FROM:	Unanticipated Revenue (2021/2022 HVE Grant)	\$11,400
FROM:	Unanticipated Revenue (2022/2023 HVE Grant)	\$15,000
FROM:	Unanticipated Revenue (2021 ICAC Grant)	\$7,682
FROM:	Prior Year Reserves (NCRCN Police Radios Upgrades & Repairs)	\$300,000
FROM:	Unanticipated Revenue (Police Reimbursable Overtime)	\$208,465
FROM:	Unanticipated Revenue (School Resource Officers)	\$42,022
FROM:	Unanticipated Revenue (DUI Enforcement)	\$8,962
FROM:	Unanticipated Revenue (Police Miscellaneous Revenue)	<u>\$96,243</u>
		\$865,515

FOR:	Help prevent auto theft	\$36,516
FOR:	Support the investigation of illegal marijuana cultivation	\$44,805
FOR:	Upgrade body worn cameras	\$75,152
FOR:	Overtime for Seat Belt enforcement	\$11,400
FOR:	Contribution to Northern Colorado Drug Task Force	\$7,868
FOR:	Overtime for DUI enforcement	\$11,400
FOR:	Help prevent Internet Crimes Against Children	\$15,000
FOR:	Police Radios Upgrades & Repairs	\$7,682
FOR:	Police Reimbursable Overtime for events	\$300,000
FOR:	Overtime for School Resource Officers	\$208,465
FOR:	DUI enforcement	\$42,022
FOR:	Police Miscellaneous Revenue	\$8,962
		<u>\$96,243</u>
		\$865,515

**4. Radon Kits**

Environmental Services sells radon test kits at cost as part of its program to reduce lung-cancer risk from in-home radon exposure. This appropriation would recover kit sales for the purpose of restocking radon test kits.

FROM:	Unanticipated Revenue (radon kit sales)	\$1,471
FOR:	Radon test kit purchase	\$1,471

**5. Manufacturing Equipment Use Tax Rebate**

Finance requests the appropriation of \$109,010 to cover the amount due for the 2021 Manufacturing Equipment Use Tax Rebate program as established in Chapter 25, Article II, Division 5, of the Municipal Code. The rebate program was established to encourage investment in new manufacturing equipment by local firms. Vendors have until December 31st of the following year to file for the rebate. This item appropriates the use tax funds to cover the payment of the rebates.

FROM: Prior Year Reserves (Manufacturing Use Tax Rebate Assignment)	\$109,010
FOR: Manufacturing Use Tax Rebates	\$109,010

## 6. Restorative Justice Grant

A grant in the amount of \$67,612 has been awarded and received from the Colorado Division of Criminal Justice (DCJ) Juvenile Diversion fund for the continued operation of Restorative Justice Services, which includes the RESTORE program for shoplifting offenses, the Restorative Justice Conferencing Program (RJCP) and Reflect Program for all other offenses. No match is required for this grant. The grant period is July 1, 2022 to June 30, 2023. Restorative Justice Services and its three programs has been partially grant-funded since its inception in 2000. The Council yearly accepts grant funds from Colorado Division of Criminal Justice to support Restorative Justice Services. This grant helps fund youth referred to the program from the 8th Judicial District Attorney's Office or in lieu of a summons. Since it began, Restorative Justice Services has provided a restorative justice alternative to more than 3,300 young people who committed chargeable offenses in our community.

FROM: Unanticipated Revenue (Restorative Justice Grant)	\$67,612
FOR: Restorative Justice Services	\$67,612

## 7. Appropriation from prior year reserves for IRS alternative fuel vehicles refund in the Equipment Fund (refer to item C34)

Operation Services applied for, and received, a refund from the IRS for alternative fuel vehicles. These funds were received in 2021 but were inadvertently not included in the 2022 annual appropriation ordinance. This will appropriate these funds from the prior year reserves of the General Fund for an administrative transfer to and expenditure from the Equipment Fund of Operation Services.

FROM: Prior Year General Fund reserves (IRS refund)	\$266,783
FOR: Equipment Fund - Alternative fuel vehicles	\$266,783

## 8. Unanticipated Revenue and Expense associated with Purchase of Civic Center Condos

In January of 2022 the City of Fort Collins purchased the Civic Center Condos on Mason Street. These condos are leased out with rental payments coming into the City. The management of the condos have come with costs for operations and maintenance (O&M), and additional appropriation is being requested to cover the O&M costs.

FROM: Unanticipated Revenue	\$255,010
FOR: Operations and Maintenance costs	\$255,010

## B. DATA & COMMUNICATIONS FUND

### 1. Accela Permitting System Upgrade

The Information Technology (IT) Department is requesting funds from the Development Tracking Systems (DTS) restricted reserves to fund this unanticipated expense request to upgrade the City's permitting platform system. The City's IT Department recently received notice that the Accela permitting platform will no longer be supported based on the current version the City is utilizing. This is requiring the City to upgrade to the latest version to avoid losing software support and any potential security risks associated with being out-of-date. Upon initiating the upgrade process, staff identified the need for consultant support to assist the City in upgrading its Development, Test, and Production Accela Civic Platform environments. The City intends to contract with TruePoint Solutions, a vendor that has provided Accela support in the past, to provide services as needed, including software installation, pre-installation/upgrade preparation assistance and post-upgrade support. Once completed, the City's permitting platform will be up to date. It

will include a new user interface that offers additional features and functionality not currently available, as well as improve the overall performance of the platform.

FROM: Prior Year Reserves (DTS assignment)	\$12,500
FOR: Accela Permitting System Upgrade	\$12,500

**C. EQUIPMENT FUND**

**1. Unanticipated Fuel Revenue from Price Increase**

The price of wholesale fuel has been higher than budgeted. This has in turn also increase the price at which the various City departments will pay for fuel provided by Operation Services. With the anticipated elevated fuel prices for the remainder of the year.

FROM: Unanticipated Revenue	\$50,000
FOR: Fuel price increase	\$50,000

**2. Charge Ahead Grant 2022**

This is a State of Colorado Charge Ahead grant to install multiple electric vehicle chargers at multiple locations. This grant requires a 20% local match which will come from the Operations Services 2022 operating budget.

FROM: Unanticipated Revenue (Charge Ahead Grant)	\$54,000
FOR: Electric vehicle chargers	\$54,000

**3. IRS alternative fuel vehicles refund from General Fund to Equipment Fund (refer to item A7)**

Operation Services applied for, and received, a refund from the IRS for alternative fuel vehicles. These funds were received in 2021 but were inadvertently not included in the 2022 annual appropriation ordinance. This will appropriate these funds from the prior year reserves of the General Fund for an administrative transfer to and expenditure from the Equipment Fund of Operation Services.

FROM: Prior Year Reserves (IRS refund)	\$266,783
FOR: Alternative fuel vehicles	\$266,783

**4. Equipment Fund Debt Service Payment**

The original appropriation for these Certificates of Participation (COPS) was done through Ordinance No. 73, 2022. This request is for the first interest payment owed under the COPs, which payment is due in December 2022. This amount is a one-time payment and will come out of Equipment Fund reserves. This amount was not included in the original Ordinance because it was not anticipated that the first interest payment would be due in 2022.

FROM: Prior Year Reserves	\$48,064
FOR: 2022 interest payment on loan	\$48,064



**D. SALES & USE TAX FUND****1. Sales Tax to Natural Areas (refer to item E1)**

Sales tax collections were higher than expected in 2021, this is to transfer remaining amount due to Natural Areas Fund.

FROM: Unanticipated Revenue (Sales tax collections)	\$48,076
FOR: Natural Areas Fund land purchase and operations	\$48,076

**E. NATURAL AREAS FUND****1. Sales Tax to Natural Areas (refer to item D1)**

Sales tax collections were higher than expected in 2021, this is to transfer remaining amount due to Natural Areas Fund.

FROM: Unanticipated Revenue	\$48,076
FOR: Natural Areas land purchase and operations	\$48,076

**F. GOLF FUND****1. Golf Fund Debt Service Payment**

The original appropriation for the payment of these Certificates of Participation (COPs) was done through Ordinance No. 72, 2022. This request is for the first interest payment owed under the COPs, which is due in December 2022. This amount is a one-time payment and will come out of Golf Fund reserves. This amount was not included in the original Ordinance because it was not anticipated that the first interest payment would be due in 2022.

FROM: Prior Year Reserves	\$80,022
FOR: 2022 interest payment on loan	\$80,022

**2. Golf Player Assistant Pay**

This is the cost associated with contractual labor payment increases to Golf Professionals for fees associated with the required payment of Player Assistants. The Golf Fund is an enterprise fund and receives no tax dollar support. In 2022, the Golf Division required the contracted golf professionals at all three of the City's golf courses to pay for Player Assistants on the golf course. In the past these positions were filled by volunteers that were reimbursed only with playing privileges. Recent changes in labor laws have required these individuals be paid for the work.

FROM: Prior Year Reserves	\$288,326
FOR: Contractual Labor payment increases	\$288,326

**G. COMMUNITY CAPITAL IMPROVEMENT PROGRAM (CCIP) FUND****1. Carnegie Library renovation operations & maintenance support (refer to item H1)**

This is the 2022 amount for the operations and maintenance support for the Carnegie Library renovation as part of the Community Capital Improvements Program.

FROM: Unanticipated Revenue	\$25,000
FOR Cultural Services (Carnegie Library)	\$25,000

## H. CULTURAL SERVICES FUND

### 1. Carnegie Library renovation operations & maintenance support (refer to item G1)

This is the 2022 amount for the operations and maintenance support for the Carnegie Library renovation as part of the Community Capital Improvements Program.

FROM: Unanticipated Revenue via transfer	\$25,000
FOR Carnegie Library Operations & Maintenance	\$25,000

## I. WATER FUND

### 1. Bureau of Reclamation 2019 additional amount - Grant Xeriscape Incentive Program

This Bureau of Reclamation grant R19A00169 was awarded to Water Conservation for the Xeriscape Incentive Program. The Bureau has increased that award by \$5,000. The Bureau released the additional funds after having retained the amount for administrative costs. This money goes toward Xeriscape Incentive Program reimbursements for customers.

FROM: Unanticipated Revenue (Bureau of Reclamation grant)	\$5,000
FOR Xeriscape Incentive Program	\$5,000

### 2. Bureau of Reclamation 2022 - Grant Xeriscape Incentive Program

A Bureau of Reclamation grant was awarded to Water Conservation for the Xeriscape Incentive Program. The full grant award of \$75,000 will be used as customer reimbursements for the program. The match funding requirement will be met by the program participants' required match.

FROM: Unanticipated Revenue (Bureau of Reclamation grant)	\$75,000
FOR Xeriscape Incentive Program	\$75,000

## J. LIGHT & POWER FUND

### 1. Wholesale Purchased Power

Through July 2022 the amount of wholesale purchased power needed for Residential, Commercial & Industrial sales has exceeded the budgeted amount of \$1,833,680. One of the factors for this increase in cost, besides increased demand, is the amount of intermittent energy sold to Fort Collins Utilities as opposed to dispatchable energy. Intermittent energy costs just over twice the amount of dispatchable energy costs. While our costs for wholesale purchased power have exceeded budget, so has our revenue generated by sales of that energy to the rate payers. Through July 2022 revenues are in excess of budget by \$4,469,729.

FROM: Unanticipated Revenue (sales of purchased power)	\$2,000,000
FOR Wholesale purchased power	\$2,000,000

### 2. Systems Additions & Replacement

Through July 2022 the system additions & replacement budget, which is comprised of several business units, is over budget by \$1,297,000. The related revenues generated from development and upgrades to the electric system are over budget by \$3,894,735 through July 2022.

FROM: Unanticipated Revenue (electric capacity charge)	\$2,500,000
FOR Electric systems additions & replacements	\$2,500,000

**K. TRANSPORTATION SERVICES FUND**

**1. South Timberline Corridor - Fort Collins-Loveland Water District - Reimbursement for Water Line Improvements**

Fort Collins-Loveland Water District (FCLWD) agreed to reimburse the City for water line improvements within the footprint of the City's South Timberline Corridor project. FCLWD asked that the City perform the water line improvements as part of the transportation capital improvement project to minimize traffic disruptions. The water line improvements were not required as part of the City's transportation project. The total amount of the reimbursement is \$132,094 and will be credited to the South Timberline Corridor project.

FROM:	Unanticipated Revenue (reimbursement)	\$132,094
FOR	South Timberline Corridor project	\$132,094

**2. Shift Your Ride Transportation Demand Management (TDM) Program: Electric Micromobility Pass and Education Series Pilot**

The contract with SPIN requires them to pay \$10,000 to the City annually for transportation programs deemed appropriate by staff. These funds will be used to cover printing costs, payroll taxes on the employee SPIN passes, and other expenses associated with the program.

FROM:	Unanticipated Revenue (Vendor payment (SPIN))	\$10,000
FOR	Shift Your Ride TDM Program	\$10,000

**3. Streets: Work for Others**

The Planning, Development and Transportation Work for Others program is a self-supported program for all "Work for Others" activities within Streets. Expenses are tracked and billed out to other City departments, Poudre School District, CSU, CDOT, Larimer County, developers and other public agencies. The original budget of \$3.0M was an estimate based on scheduled projects and anticipated rates. Due to increased cost of asphalt, fuel, parts, and other materials, an additional \$300,000 is requested to cover costs through the end of 2022. Revenue for performing the work will offset the expense (note: expense will not be incurred without offsetting revenue).

FROM:	Unanticipated Revenue (reimbursement for work done)	\$300,000
FOR	Work for Others program	\$300,000

**CITY FINANCIAL IMPACTS**

---

This Ordinance increases total City 2022 appropriations by \$7,564,003. Of that amount, this Ordinance increases General Fund 2022 appropriations by \$1,596,062, including use of \$692,164 in prior year reserves. Funding for the total increase to City appropriations is \$6,176,144 from unanticipated revenue and \$1,387,859 from prior year reserves.

The following is a summary of the items requesting prior year reserves:

Item #	Fund	Use	Amount
A1	General Fund	Emergency Preparedness and Security (EPS) Security Classes	\$13,621
A2	General Fund	Land Bank Operational Expenses	2,750
A3i	General Fund	NCRCN Police Radios Upgrades and Repairs	300,000
A5	General Fund	Manufacturing Equipment Use Tax Rebate	109,010
A7	General Fund	IRS alternative fuel vehicles refund from General Fund to Equipment Fund	266,783
B1	Data & Comm. Fund	Accela Permitting System Upgrade	12,500
C3	Equipment Fund	IRS alternative fuel vehicles refund from General Fund to Equipment Fund (refer to item A7)	266,783
C4	Equipment Fund	Equipment Fund Debt Service Payment	48,064
F1	Golf Fund	Golf Fund Debt Service Payment	80,022
F2	Golf Fund	Golf Player Assistant Pay	288,326
<b>Total Use of Prior Year Reserves:</b>			<b>\$1,387,859</b>

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

---

Not applicable.

**PUBLIC OUTREACH**

---

Not applicable.

**ATTACHMENTS**

---

1. Ordinance A for Consideration
2. Ordinance B for Consideration

ORDINANCE NO. 102, 2022  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING SUPPLEMENTAL APPROPRIATIONS  
FROM VARIOUS CITY FUNDS

WHEREAS, the City has received additional revenue and other funds this fiscal year that were not anticipated; and

WHEREAS, the City has also received revenue and other funds that has been anticipated but was not appropriated in the 2022 annual appropriation or previous supplemental appropriations; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriations, in combination with all previous appropriations for that fiscal year, does not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year; and

WHEREAS, the City Manager is recommending the appropriations described herein and determined that these appropriations are available and previously unappropriated from the Funds named within Section 2 of this Ordinance and will not cause the total amount appropriated in each Fund named within Section 2 of this Ordinance to exceed the current estimate of actual and anticipated revenues and all other funds to be received in each such Fund during this fiscal year; and

WHEREAS, the City Council finds and determines that the adoption of this Ordinance is necessary for the public’s health, safety, and welfare, and therefore, wishes to authorize the expenditures described in this Ordinance and that such expenditures will serve the public purposes for which they are designated.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from the following Funds the amounts of additional revenue and other funds to be expended for the public purposes stated below.

A. GENERAL FUND

1.	FROM: Unanticipated Revenue	\$14,290
	FOR: Security Classes (City Manager’s Office)	\$14,290

2a.	FROM: Additional Revenue (2022/2023 BATTLE Grant)	\$36,516
	FOR: Help prevent auto theft (Police Services)	\$36,516
2b.	FROM: Additional Revenue (2022/2023 Black Market Marijuana Grant)	\$44,805
	FOR: Support the investigation of illegal marijuana cultivation (Police Services)	\$44,805
2c.	FROM: Additional Revenue (2022 Body Worn Camera Grant)	\$75,152
	FOR: Upgrade body worn cameras (Police Services)	\$75,152
2d.	FROM: Additional Revenue (2022 Click it or Ticket Grant)	\$11,400
	FOR: Overtime for Seat Belt enforcement (Police Services)	\$11,400
2e.	FROM: Additional Revenue (Northern Colorado Drug Taskforce)	\$7,868
	FOR: Contribution to Northern Colorado Drug Task Force (Police Services)	\$7,868
2f.	FROM: Additional Revenue (2021-22-23 HVE Grant)	\$26,400
	FOR: Contribution to Northern CO Drug Task Force (Police Services)	\$26,400
2g.	FROM: Additional Revenue (2021 ICAC Grant)	\$7,682
	FOR: Help prevent Internet Crimes Against Children (Police Services)	\$7,682
2h.	FROM: Additional Revenue (Police Reimbursable Overtime)	\$208,465
	FOR: Overtime for School Resource Officers (Police Services)	\$208,465
2i.	FROM: Additional Revenue (School Resource Officers)	\$42,022
	FOR: DUI enforcement (Police Services)	\$42,022
2j.	FROM: Additional Revenue (DUI Enforcement From Larimer County)	\$8,962
	FOR: Police Miscellaneous Revenue (Police Services)	\$8,962
2k.	FROM: Additional Revenue (Police Miscellaneous Revenue from Sales)	\$96,243
	FOR: Police Miscellaneous Revenue (Police Services)	\$96,243
3.	FROM: Unanticipated Revenue (radon kit sales)	\$1,471
	FOR: Radon test kit purchase (Environmental Services)	\$1,471
4.	FROM: Unanticipated Revenue (Restorative Justice Grant)	\$67,612
	FOR: Restorative Justice Services (Neighborhood Services)	\$67,612
5.	FROM: Unanticipated Revenue (Purchase of Civic Center Condos)	\$255,010
	FOR: Operations and Maintenance costs (Operation Services)	\$255,010

## B. EQUIPMENT FUND

1.	FROM: Unanticipated Revenue (Fuel Price Increase)	\$50,000
	FOR: Fuel Price Increase (Operation Services)	\$50,000
2.	FROM: Unanticipated Revenue (Charge Ahead Grant)	\$54,000
	FOR: Electric vehicle chargers (Operation Services)	\$54,000

## C. SALES AND USE TAX FUND

1.	FROM: Unanticipated Revenue (Sales tax collections)	\$48,076
	Natural Areas land purchase and operations	
	FOR: (Natural Areas) (Refer to item D1.)	\$48,076

## D. NATURAL AREAS FUND

1.	FROM: Unanticipated Revenue (Sales tax collections)	\$48,076
	FOR: Natural Areas land purchase and operations (Natural Areas)	\$48,076

## E. COMMUNITY CAPITAL IMPROVEMENT PROGRAM (CCIP) FUND

1.	FROM: Unanticipated Revenue (Carnegie Operations)	\$25,000
	FOR: Cultural Services (Carnegie Library)(Refer To Item F1)	\$25,000

## F. CULTURAL SERVICES FUND

1.	FROM: Unanticipated Revenue (Library Ops and Renovation)	\$25,000
	FOR: Cultural Services (Cultural Services)	\$25,000

## G. WATER FUND

1.	FROM: Unanticipated Revenue (Bureau of Reclamation grant 2019)	\$5,000
	FOR: Xeriscape Incentive Program (UT Customer Connections)	\$5,000
2.	FROM: Unanticipated Revenue (Bureau of Reclamation grant)	\$75,000
	FOR: Xeriscape Incentive Program (UT Customer Connections)	\$75,000

## H. LIGHT AND POWER FUND

1.	FROM: Unanticipated Revenue (sales of purchased power)	\$2,000,000
	FOR: Wholesale purchased power (UT Electric Systems)	\$2,000,000
2.	FROM: Unanticipated Revenue (electric capacity charge)	\$2,500,000
	FOR: Electric systems additions & replacements (UT Distribution)	\$2,500,000

I. TRANSPORTATION SERVICES FUND

1.	FROM: Unanticipated Revenue (reimbursement)	\$132,094
	FOR: South Timberline Corridor project (Engineering)	\$132,094
2.	FROM: Unanticipated Revenue (Vendor payment (SPIN))	\$10,000
	FOR: Shift Your Ride TDM Program (FC Moves)	\$10,000
3.	FROM: Unanticipated Revenue (reimbursement for work done)	\$300,000
	FOR: Work for Others program (Streets)	\$300,000

Introduced, considered favorably on first reading, and ordered published this 4th day of October, A.D. 2022, and to be presented for final passage on the 18th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading this 18th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



ORDINANCE NO. 103, 2022  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PRIOR-YEAR RESERVES  
IN VARIOUS CITY FUNDS

WHEREAS, the City has prior year-reserves available for appropriation; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to appropriate by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such funds were not previously appropriated; and

WHEREAS, the City Manager is recommending the appropriations described herein and has determined that these appropriations are available and previously unappropriated from the Funds named within Section 2 of this Ordinance and will not cause the total amount appropriated in each Fund named within Section 2 of this Ordinance to exceed the current estimate of actual and anticipated revenues and all other funds to be received in each such Fund during this fiscal year; and

WHEREAS, the City Council finds and determines that the adoption of this Ordinance is necessary for the public’s health, safety, and welfare, and therefore, wishes to authorize the expenditures described in this Ordinance and that such expenditures will serve the public purposes for which they are designated in Section 2 below.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2: That there is hereby appropriated from the following Funds the amounts of prior year reserves set forth below to be expended for the public purposes stated below.

A. GENERAL FUND

1.	FROM:	Prior Year Reserves (2021 class revenue)	\$13,621
	FOR:	Security Classes (City Manager’s Office)	\$13,621
2.	FROM:	Prior Year Reserves (Land Bank reserve)	\$2,750
	FOR:	Land Bank Expenses	\$2,750
3.	FROM:	Prior Year Reserves (NCRCN Police Radios Upgrades & Repairs)	\$300,000
	FOR:	Police Radios Upgrades & Repairs	\$300,000
4.	FROM:	Prior Year Reserves (Manufacturing Use Tax Rebate Assignment)	\$109,010
	FOR:	Manufacturing Use Tax Rebates	\$109,010

5.	FROM:	Prior Year General Fund reserves (IRS refund)	\$266,783
	FOR:	Equipment Fund - Alternative fuel vehicles (Operation Services) (Refer to Item C2)	\$266,783

B. DATA AND COMMUNICATIONS FUND

1.	FROM:	Prior Year Reserves (DTS assignment)	\$12,500
	FOR:	Accela Permitting System Upgrade	\$12,500

C. EQUIPMENT FUND

1.	FROM:	Prior Year Reserves	\$48,064
	FOR:	2022 interest payment on loan	\$48,064

2.	FROM:	Prior Year General Fund Reserves (IRS refund)	\$266,783
	FOR:	Alternative fuel vehicles (Operation Services) (Refer to Item A5)	\$266,783

D. GOLF FUND

1.	FROM:	Prior Year Reserves	\$80,022
	FOR:	2022 interest payment on loan	\$80,022

2.	FROM:	Prior Year Reserves	\$288,326
	FOR:	Contractual Labor payment increases	\$288,326

Introduced, considered favorably on first reading, and ordered published this 4th day of October, A.D. 2022, and to be presented for final passage on the 18th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading this 18th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

October 4, 2022



## AGENDA ITEM SUMMARY

City Council

---

### STAFF

---

Katie Donahue, Natural Areas Director  
Julia Feder, Environmental Program Manager  
Alynn Karnes, Land Conservation Specialist  
Tawnya Ernst, Sr. Real Estate Specialist  
Ingrid Decker, Legal

### SUBJECT

---

**First Reading of Ordinance No. 104, 2022, Authorizing the Conveyance of a Permanent, Nonexclusive Stormwater Drainage Easement on Redtail Grove Natural Area to WWW Properties, LLC.**

### EXECUTIVE SUMMARY

---

The purpose of this item is to authorize conveyance of a permanent, nonexclusive drainage easement to WWW Properties, LLC (owners of Fort Collins Nissan and Fort Collins Kia) on Redtail Grove Natural Area. The proposed easement area aligns with an existing historic drainage path for stormwater. WWW Properties, LLC will construct underground water quality and detention facilities on their property to capture stormwater, decrease peak flow rates into Fossil Creek, and decrease the amount of water overtopping the Fossil Creek Trail, as well as the time the trail is overtopped, during significant storm events.

### STAFF RECOMMENDATION

---

Staff recommends adoption of the Ordinance on First Reading.

### BACKGROUND / DISCUSSION

---

Redtail Grove Natural Area is a 51-acre natural area situated west of College Avenue between Harmony and Trilby Roads. The natural area conserves riparian habitat along Fossil Creek while providing visitor use amenities, including the paved Fossil Creek Trail, to adjacent neighborhoods and businesses along College Avenue.

WWW Properties, LLC owns three parcels (totaling 24+/- acres) south of the natural area, including the site of the existing Fort Collins Nissan dealership. WWW Properties intends to expand its operations at the Nissan dealership site to collocate a Kia dealership that is currently at another location. It submitted expansion plans for conceptual review to the City's Development Review Center in the fall of 2021.

The City's Land Use Code requires mitigation of any stormwater generated on the property due to the proposed development. Late last year, representatives of WWW Properties contacted Natural Areas' staff with a request for a non-exclusive drainage easement as they explored alternatives to route stormwater flows.

Currently and historically, stormwater from the east side of WWW Properties' land flows north into a natural drainage swale in the southeast corner of Redtail Grove Natural Area. Stormwater from the west side of the WWW Properties' land drains west to Lang Gulch. During significant storm events, existing drainage flows overtop Fossil Creek Trail. WWW Properties' proposed development plan would increase the paved area on their property, which in turn would increase the amount of impermeable surface, lessening the ability of stormwater to naturally infiltrate the soil. Therefore, this development would increase the overall volume of water that would run downhill through the existing swale and enter Fossil Creek, if no mitigation actions were taken.

Numerous alternatives for mitigation were reviewed as part of the design process. The preferred alternative for protecting the Redtail Grove Natural Area involves the installation of underground water quality detention facilities on WWW Properties' land. The applicant has secured a letter of intent from the owner of the property (Silverthorne, LLC) that lies between the WWW Properties' land and the natural area to collaborate on easements through this property. However, the stormwater would still flow across the natural area to Fossil Creek.

WWW Properties' project team has met with staff (including Natural Areas, Park Planning and Development, and Utilities-Stormwater representatives) on several occasions to discuss permitting and master storm drainage issues related to the proposed development. In addition, multiple internal discussions between these departments, as well as the Parks Department, have occurred to determine a preferred alternative to manage the potential increased flows.

### **Alternatives Analysis:**

The following location and design alternatives were submitted by WWW Properties in its alternatives analysis to manage the stormwater outfall coming from the eastern portion of the property:

#### *Alternative 1 (Preferred):*

WWW Properties would install underground water quality detention facilities on its land. The collected stormwater from these facilities would release to Fossil Creek across the Silverthorne property. Once reaching the natural area's border, the stormwater would flow along a 30'-wide, 370'+/- long segment of a natural drainage swale, through an existing 12" culvert under the Fossil Creek Trail, and into Fossil Creek. The total proposed easement area is 11,045 square-feet (0.254 acres). The installation of the underground water quality detention facilities would:

- Filter stormwater runoff for water quality prior to being released.
- Help slowly release the collected stormwater and mitigate for some of the existing issues during storm events. This includes reducing projected peak flow rates and decreasing the quantity of water and duration of time the Fossil Creek Trail is overtopped during significant storm events.
- Direct stormwater flows along a historic drainage way.

This preferred alternative would not involve any construction or installation disturbance on Natural Areas' property or to the Fossil Creek Trail.

Installation of larger or additional culverts was considered as part of this alternative. However, impacts of culvert installation would include:

- Closing Fossil Creek Trail for approximately two weeks to remove pavement, install the culvert, and reconnect the trail.
- Construction equipment would be mobilized across approximately 500 feet of natural area and paved trail, likely necessitating restoration.

*Alternative 2:*

This alternative is in the same location as the preferred alternative. However, a storm sewer would be constructed to carry water from WWW Properties' land and through the natural area before discharging in Fossil Creek. The sewer would require permanent maintenance access across the natural area for the added infrastructure. This alternative would require significant disturbance through the natural area and within existing wetlands, floodway and erosion buffer at Fossil Creek. Historic drainage patterns would also be disrupted.

*Alternative 3:*

This alternative mirrors Alternative 2, but the storm sewer would be constructed on the northeast portion of WWW Properties' land where it directly connects to Natural Areas' property. As in Alternative 2, the sewer would require permanent maintenance access across the natural area for the added infrastructure. This alternative would require significant disturbance through the natural area and within existing wetlands, floodway, and erosion buffer at Fossil Creek. Historic drainage patterns would also be disrupted.

*Alternative 4:*

This alternative would reroute stormwater runoff via a pipe to the west of WWW Properties' land and discharge the water to Lang Gulch, where the western portion of the property's stormwater runoff would already be directed, to avoid passing the water over the natural area. Detention of all the property's runoff would not be possible through underground facilities on the western side of the property. A direct connection to Lang Gulch for the east side's outfall would increase the flowrates that would be seen to Lang Gulch and ultimately to Fossil Creek. Impacts to Lang Gulch would be significant with an added pipe for outfall and additional, un-detained runoff being directed to the channel.

While discharge of stormwater into Lang Gulch would keep the drainage on WWW Properties land, this alternative has the potential to increase erosion, putting sediment and additional untreated water into Lang Gulch and Fossil Creek. Lang Gulch, a small tributary to Fossil Creek, contains significant rock outcrops with numerous fossils, native vegetation, and a narrow fringe of wetlands.

*Alternative 5:*

This alternative contemplated drainage onto College Avenue/Highway 287. WWW's project team has met with the Colorado Department of Transportation (CDOT) about diverting the water through the right-of-way at College Avenue in a storm sewer, until it reaches the box culvert that drains into Fossil Creek underneath College Avenue. CDOT staff have said they cannot accept increased flow rates into CDOT right-of-way.

Due to the significant amount of disturbance for all culvert installation or replacement designs, or the addition of a storm sewer through the natural area (Alternative 2 and 3) staff did not believe that these designs and alternatives are the best way to protect the existing natural resources. Ultimately, a no-build approach (Alternative 1 without culvert installation) was selected as the preferred option. Additionally, Alternatives 2, 3, 4 and 5 would greatly reduce or eliminate the stormwater that has historically flowed across the swale on Redtail Grove, removing water from a portion of the Redtail Grove habitat.

## **CITY FINANCIAL IMPACTS**

---

Application fee	\$3,000
Mitigation Fee - non-wetland - \$3,800/ac. @ 0.254 acres	\$3,800
Easement fee - \$5,000/ac. - \$0.254/ac. @ 50% of fair market value	\$1,270

To mitigate for an increase in volume of stormwater outflow through the historic natural area drainage path, Natural Areas staff is requesting the applicant provide payment in lieu to mitigate a portion of land on both

sides of the existing culvert with native vegetation, slowing down the volume of water entering and exiting the culvert at one time. This would prevent erosion to the natural area over time.

These estimated fees would be paid to the Natural Areas Department to support administrative costs and land conservation efforts.

### **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

---

The Land Conservation and Stewardship Board reviewed this request at its July 13, 2022, meeting. Conversation centered around the presentation of the easement proposal and analysis as well as the overall Natural Areas' easement policy. Following the presentation, the Board voted to table the WWW Properties' request indefinitely. Questions and concerns regarding the clarity of the proposal details have been addressed in the revised package presented to Council.

### **PUBLIC OUTREACH**

---

Not applicable.

### **ATTACHMENTS**

---

1. Ordinance for Consideration
2. Vicinity Map
3. Site Map
4. Land Conservation and Stewardship Minutes, July 13, 2022

ORDINANCE NO. 104, 2022  
 OF THE COUNCIL OF THE CITY OF FORT COLLINS  
 AUTHORIZING THE CONVEYANCE OF A PERMANENT, NONEXCLUSIVE  
 STORMWATER DRAINAGE EASEMENT ON REDTAIL GROVE NATURAL AREA TO  
 WWW PROPERTIES, LLC

WHEREAS, the City is the owner of real property located south of Harmony Road along South College Avenue known as Redtail Grove Natural Area (the “City Property”); and

WHEREAS, WWW Properties, LLC (“WWW”) owns property south of the City Property, at 5811 South College Avenue, which is the site of the Fort Collins Nissan dealership (the “WWW Property”); and

WHEREAS, the City is in the process of reviewing a Final Development Plan for the WWW Property that would include taking down the existing building on the property and replacing it with a new Kia dealership and a new Nissan dealership; and

WHEREAS, for the proposed development to be approved, WWW must acquire any needed easements to manage stormwater drainage issues associated with increased development on its property; and

WHEREAS, WWW and City staff considered five alternatives for managing stormwater outfall and concluded that the preferred option is to collect stormwater in underground water quality detention facilities on the WWW property and then direct it in an easement over a historic natural drainage swale on downstream properties, including the City Property, to Fossil Creek; and

WHEREAS, this option benefits the City Property by filtering stormwater runoff for water quality before it is released and reducing the overtopping of the Fossil Creek Trail on the City Property during significant storm events; and

WHEREAS, the location of the proposed stormwater easement is shown and described on Exhibit “A”, attached and incorporated herein by reference (the “Easement”); and

WHEREAS, WWW would pay the City fair market value of \$1,270 for the Easement, plus a \$3,000 application fee, and a \$3,800 mitigation fee that Natural Areas will use to plant vegetation on the City Property to mitigate erosion from stormwater drainage; and

WHEREAS, the Easement would be nonexclusive and would not grant WWW any right to install any new improvements on the City Property; and

WHEREAS, Section 23-111(a) of the City Code authorizes the City Council to sell, convey or otherwise dispose of any interests in real property owned by the City, provided the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:



Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby finds that the conveyance of the Easement to WWW as provided herein is in the best interests of the City.

Section 3. That the Mayor is hereby authorized to execute such documents as are necessary to convey the Easement to WWW on terms and conditions consistent with this Ordinance, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City or effectuate the purposes of this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 4th day of October, A.D. 2022 and to be presented for final passage on the 18th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading on this 18th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**PROPERTY DESCRIPTION**

A strip of land, 30.00 feet in width for easement purposes, located in the Northeast Quarter (NE1/4) of Section Eleven (11) and in the Southeast Quarter (SE1/4) of Section Two (2), Township Six North (T.6N.), Range Sixty-nine West (R.69W.) of the Sixth Principal Meridian (6th P.M.), City of Fort Collins, County of Larimer, State of Colorado and being more particularly described as follows:

**COMMENCING** at the Northeast corner of said Section 11 and assuming the North line of said NE1/4 as bearing South 88°31'52" West being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 2621.55 feet with all other bearings contained herein relative thereto;

THENCE South 88°31'52" West along the North line of said NE1/4 a distance of 593.07 feet to the **POINT OF BEGINNING**;

THENCE South 14°59'12" East a distance of 117.34 feet;

THENCE South 25°09'48" East a distance of 129.31 feet to the North line of that parcel of land described in Warranty Deed recorded January 13, 2000 as Reception No. 2000003397 of the Records of Larimer County;

THENCE South 87°14'48" West along said North line a distance of 32.45 feet;

THENCE North 25°19'48" West a distance of 119.61 feet;

THENCE North 14°59'12" West a distance of 245.04 feet;

THENCE North 75°00'48" East a distance of 30.00 feet;

THENCE South 14°59'12" East a distance of 125.03 feet to the **POINT OF BEGINNING**.

Said described parcel of land contains 11,045 Square Feet or 0.254 Acres, more or less (±), and is subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

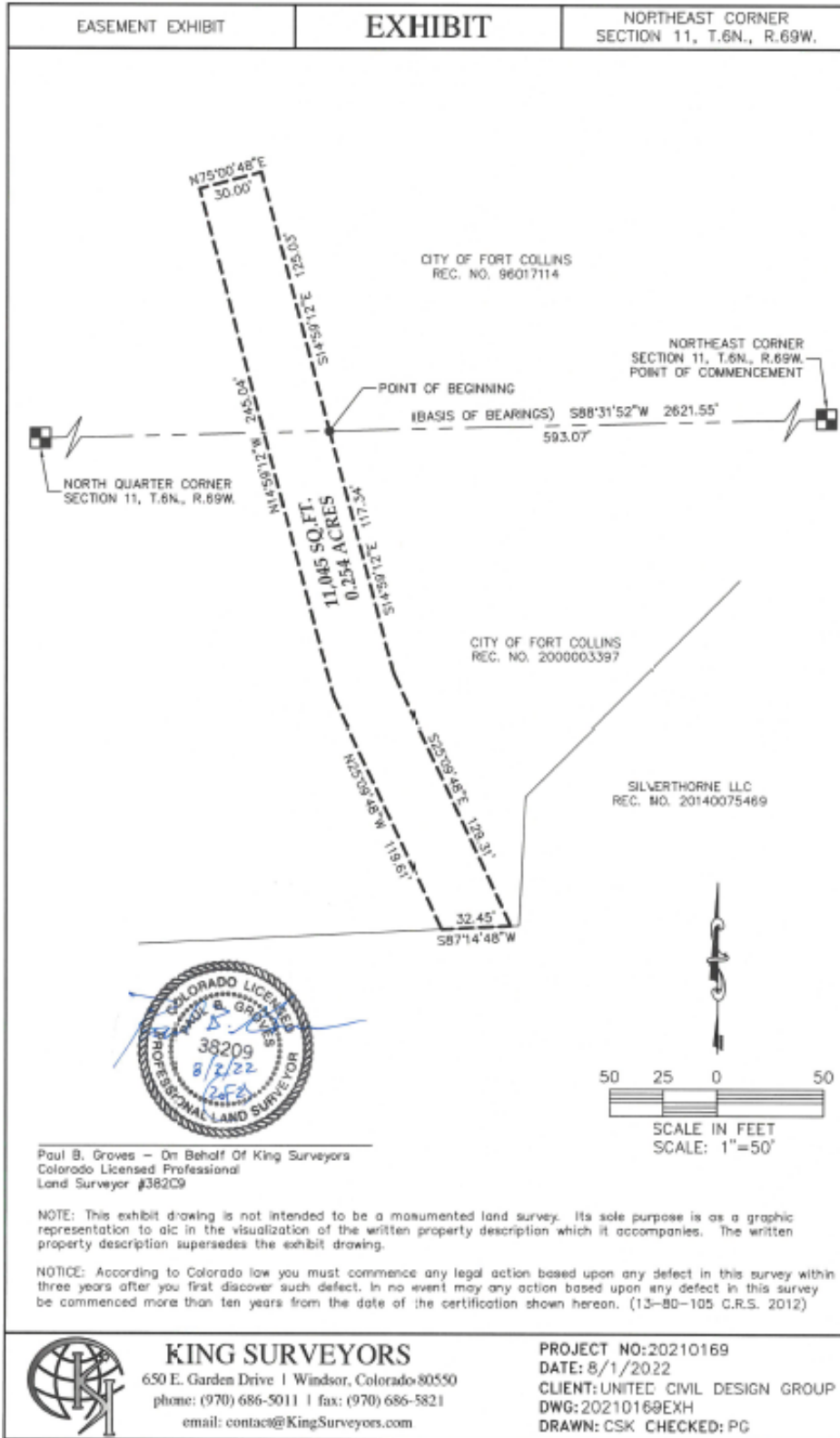
**SURVEYORS STATEMENT**

I, Paul B. Groves, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.

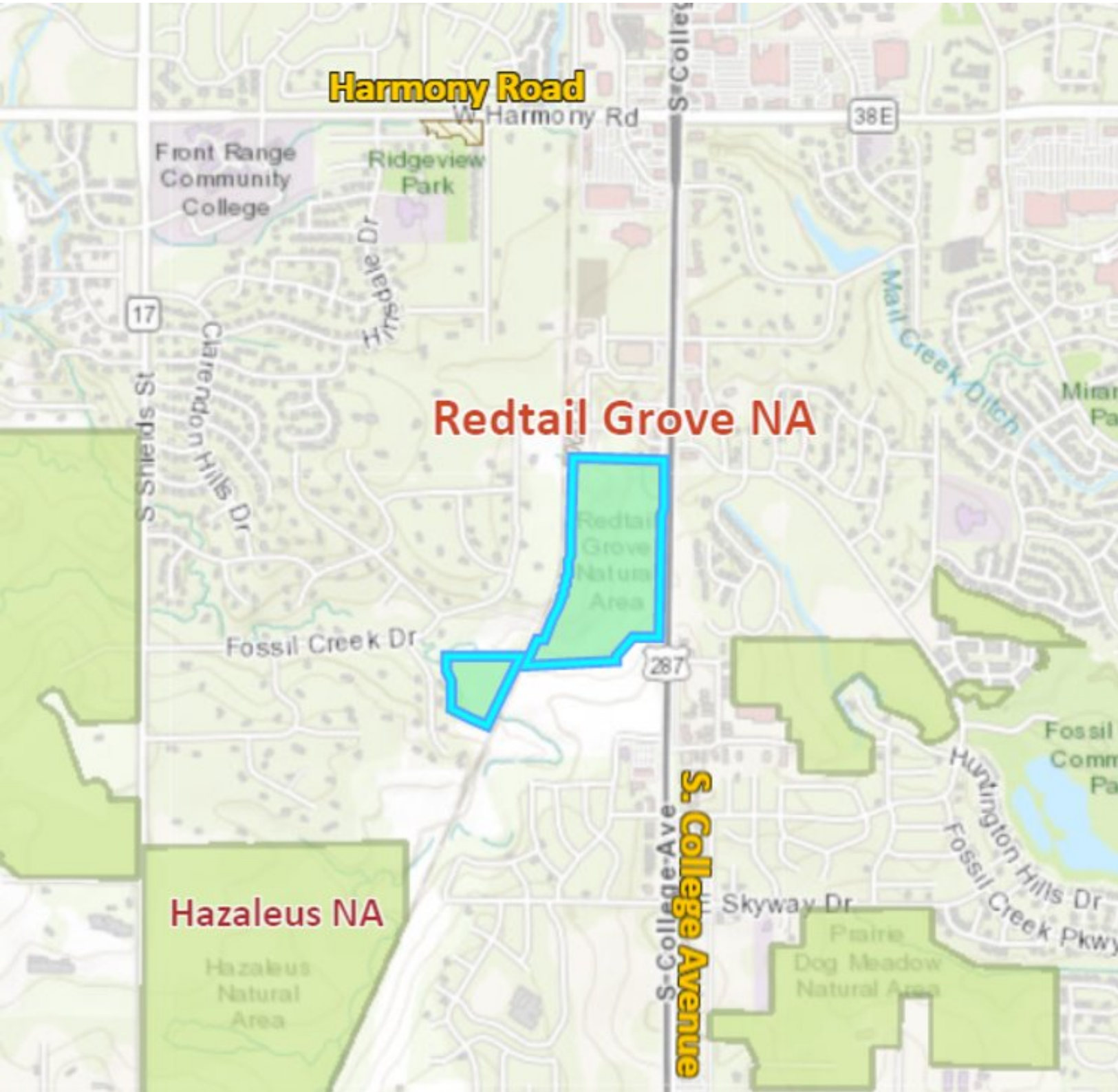


Paul B. Groves - on behalf of King Surveyors  
Colorado Licensed Professional  
Land Surveyor #38209

**KING SURVEYORS**  
650 East Garden Drive  
Windsor, Colorado 80550  
(970) 686-5011



Vicinity Map





Site Map

- Redtail Grove boundary
- Nissan-KIA boundary
- Proposed drainage

# MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



Item 8.

## Land Conservation & Stewardship Board July 13, 2022 Regular Meeting – Excerpt

### Nissan-KIA Drainage Easement

**Alynn Karnes, Land Conservation Specialist** introduced a potential drainage easement to Fort Collins Nissan-KIA across the southeast corner of Redtail Grove Natural Area. The Nissan-KIA dealership development plan requires that a drainage path be identified and formalized to mitigate their stormwater outfall from the development. This proposed easement path follows an existing natural drainage swale where stormwater already flows from the uphill Nissan-KIA property into Fossil Creek. Natural Areas staff were contacted in late 2021 with an easement request to address the additional volume of water anticipated from the proposed development and formalize the historic stormwater flows.

Staff discussed alternative analyses for drainage and design options to mitigate the increased volume of stormwater into Fossil Creek with the developer, and the Utilities and Parks Departments. Alternative analyses included: laying a pipe under Nissan-KIA, private landowner, and Natural Areas properties to convey the stormwater directly to Fossil Creek, diverting a pipe up the northeasterly side of the Nissan-KIA property parallel to College Avenue and placing a storm sewer to drain to Fossil Creek along a new drainage path, and piping the stormwater to the western side of the property to outfall into Lang Gulch. Upon assessment, these alternatives appeared to either require a higher level of disturbance and long-term maintenance to the natural area property or physically were not viable options. Alternative designs to the proposed drainage path included: a detention pond on the southeast corner of the property, or the installation or addition of a larger culvert underneath Fossil Creek Trail. In all alternative design scenarios, there would be significant damage done to the natural area vegetation and/or trail that would need to be mitigated for and restored. In all proposed alternative designs, the trail would need to be closed to the public for approximately two weeks during construction. City staff collectively determined that Nissan-KIA's proposed underground stormwater detention design on their property, with a slow release of drainage to Fossil Creek, protects the natural area more than the other options of granting a detention pond on the property or increasing the size or number of culverts that convey drainage under the trail.

**Discussion:** The Board and NAD staff had an extensive discussion about the alternative options to include drainage, stormwater standards compliance, Fossil Creek water quality from the car lot runoff, monitoring of the water discharged, amount of runoff and additional cars on the car lot. Member Cunniff inquired about auto service drainage. The dealership uses a contained part cleaner and then a skimmer for oils and particulates that are then hauled off-site. Alynn expressed that most of the drainage will go into Lang Gulch.

**Member Cunniff made a motion to table the Nissan-KIA Drainage Easement indefinitely. Member Lopez seconded the motion. The motion was unanimously approved 8-0.**

October 4, 2022

# AGENDA ITEM SUMMARY

City Council



## STAFF

Jason Graham, Utilities  
Tawnya Ernst, Real Estate Services  
Ryan Malarky, Legal

## SUBJECT

**First Reading of Ordinance No. 105, 2022, Authorizing the Conditional Conveyance of Certain City-Owned Property Rights to Chris Vandemoer and Geo. A. Henderson Co.**

## EXECUTIVE SUMMARY

The purpose of this item is to seek Council authorization for the conditional conveyance of certain City-owned real property rights to Chris Vandemoer and Geo. A. Henderson, Co. (collectively "Vandemoer"). The proposed conveyance is part of a proposed settlement agreement between the City, Vandemoer, and The Nature Conservancy ("TNC") to obtain necessary property rights on the primary private access road for all three phases of the City's Halligan Water Supply Project ("Halligan Project"), in which the City intends to replace or modify a dam and enlarge Halligan Reservoir. Vandemoer owns certain real property adjacent to the reservoir that includes a private road that serves as the primary access point to the reservoir and the dam. The property is also encumbered by two conservation easements held by TNC. Since late 2018, City representatives have negotiated with Vandemoer to obtain property rights necessary for the Halligan Project. The parties are currently in eminent domain litigation for Phase 1 of the Project and have had productive conversations regarding a global settlement for all three phases of the Halligan Project.

The conveyance of the City-owned property would only occur if: (1) the parties enter into a settlement agreement; and (2) the City completes construction of the Halligan Project. This Ordinance does not seek approval of the settlement agreement itself. The decision whether to enter into the settlement agreement would be made by the City Manager following a recommendation by City staff, in consultation with outside legal counsel and the City Attorney's Office. This Ordinance is limited only to authorizing the conditional conveyance of City-owned property. The structure of the settlement agreement is explained more fully below.

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

## BACKGROUND / DISCUSSION

### Discussions and Negotiations

Vandemoer's property serves as the primary access point to Halligan Reservoir. An existing private road traverses Vandemoer's property and ends at the Halligan dam. City staff have been communicating with Vandemoer for more than five years to share information, better understand

Vandemoer's concerns, and to work towards addressing those concerns while also moving the Halligan Project forward. A map of the Reservoir area is included with this AIS for reference.

Pursuant to Council authorization in Ordinance No. 013, 2020, the City is engaged in eminent domain litigation with Vandemoer, TNC, and other parties to acquire access rights along the existing road for Phase 1 (Permitting and Design) of the project. City staff and Vandemoer have been negotiating a possible settlement of the litigation that would result in the City obtaining the property rights it needs from Vandemoer for all three phases of the Project, including construction and ongoing operation.

More recently, City staff have been communicating with TNC about the Project's impacts to TNC's conservation easements. The ongoing eminent domain litigation only concerns Phase 1 of the Project, which does not impact TNC's conservation easements. However, a settlement of property rights for Phase 2 would impact the conservation easements because that is when construction will begin, the road would be modified, and more substantial use of the road will occur. Phase 3 includes perpetual use of the road, which may also have impacts to the conservation easements. Accordingly, a proposed 3-phase settlement includes expanding the scope of the pending eminent domain case to include the property rights for Phases 2 and 3. Because the City's use in those later phases would impact the conservation easements, TNC's agreement to the settlement is appropriate. TNC has made certain requests regarding project means and methods with the intent towards mitigating impacts to wildlife and conservation interests. City staff and TNC are continuing discussions regarding the feasibility of those requests.

### **Proposed Agreement Benefits**

While this Ordinance does not ask Council to approve the settlement agreement, an explanation of the proposed settlement framework may be helpful. City staff views the proposed settlement agreement as beneficial to the City because the proposed agreement would give the City the property rights it needs on this primary access to Halligan dam for all three phases of the Project and would eliminate the risk and expense of ongoing and future eminent domain litigation.

The City would acquire from Vandemoer property rights for all three phases as follows:

- Phase 1
  - The City would continue to have access along the existing road from Highway 287 under the existing temporary access agreement with Vandemoer.
- Phase 2
  - The City's Phase 2 property rights would begin when its Phase 1 rights end.
  - In exchange for compensation, the City would have a temporary construction easement generally along the existing road on Vandemoer's property.
  - The City would be able to widen and modify the road to meet the access needs of heavy equipment and materials.
  - When this temporary construction easement, the City's access rights would transition to its Phase 3 rights.
- Phase 3
  - The City would have permanent property rights it will need to operate and maintain the Reservoir, including, but not limited to, use of the improved road for access to the reservoir for all reservoir and dam operations, inspection, maintenance, repair. The City would also have the property rights it needs to raise the water level of the reservoir.

### **Consideration from the City**

In exchange for Vandemoer conveying the property rights to the City, the City would pay a negotiated amount as a single payment for all property rights acquired, impaired or damaged. This amount is currently



contemplated to be \$1,543,000 but is subject to change as negotiations continue. The intent is that the single payment will compensate both Vandemoer and TNC, which is customary in eminent domain cases. This amount would also cover all claims for costs and attorney fees either Vandemoer or TNC might be entitled to.

Consideration would also include the City conditionally conveying property rights to Vandemoer, which is the purpose of the proposed Ordinance. The City owns real property at the reservoir by way of a Halligan Reservoir agreement with the North Poudre Irrigation Company (“NPIC”), dated November 8, 1993, pursuant to which NPIC conveyed property to the City and retained the right to the return of that property in the event the City terminates the project. Accordingly, the City’s conveyance of property rights to Vandemoer would be conditioned upon the City completing construction of the Project and NPIC’s right to reacquire property irrevocably lapsing or being expressly released in writing by NPIC.

The City would conditionally convey fee title to Vandemoer of three parcels of City land adjacent to the reservoir, totaling approximately 23 acres, while retaining for the City an access easement to the reservoir for inspection and maintenance. The land to be conveyed to Vandemoer would include a permanent restrictive covenant that would prohibit commercial uses and building on the property. Cattle grazing would be allowed, but the City could fence out livestock to protect wetlands and vegetation under restoration.

The City would also conditionally grant Vandemoer an access easement (~7 acres) over City land that would fluctuate with the water level. The easement would only allow pedestrian access and cattle grazing, although the City could fence out livestock to protect wetlands and vegetation under restoration. No commercial uses or improvements would be allowed, such as buildings or roads.

The conveyance of any City property rights to Vandemoer would not take place until: (1) after the City entered into the proposed settlement agreement; (2) the City finished construction of the Project; and (3) the North Poudre Irrigation Company’s right to reacquire the City property rights is extinguished.

This means that if the City ultimately does not pursue the Halligan Project, the City would retain the property rights that are the subject of this Ordinance.

### **Consideration from Vandemoer**

In exchange, Vandemoer would convey to the City:

- The City would continue to have its temporary access along the road for Phase 1 permitting and design.
- Three parcels of land in fee for the permanent inundation of reservoir water, totaling approximately 5 acres.
- A permanent inundation easement on his land for high water events and to allow the City access for inspection and maintenance, covering approximately 9 acres.
- A temporary construction easement for the construction in Phase 2 construction, which would become a permanent access easement at Phase 3 operations and maintenance.

### **Settlement with TNC**

TNC has a conservation easement on a portion of Vandemoer's land that would be impacted by the City work on the Project. Staff are coordinating with TNC to incorporate mitigation measures into the Project and, to the extent necessary, subordinate the conservation easements on those portions of the Vandemoer property that will be impacted by the improvement and use of the road for Phases 2 and 3.

## **CITY FINANCIAL IMPACTS**

---

While negotiations are ongoing and settlement is not final, the estimated compensation to be paid by the City is \$1,543,000. City staff calculates that the exchange in real property interests between the City and Vandemoer, combined with the value of avoiding the risks and expense of protracted litigation, is equivalent to or exceeds the City receiving fair market value for the City property.

## **ATTACHMENTS**

---

1. Ordinance for Consideration
2. Ordinance Exhibit A
3. Ordinance Exhibit B
4. Vicinity Map

ORDINANCE NO. 105, 2022  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE CONDITIONAL CONVEYANCE OF CERTAIN CITY-OWNED  
PROPERTY RIGHTS TO CHRIS VANDEMOER AND GEO. A. HENDERSON CO.

WHEREAS, by the adoption of Resolution 2003-121, City Council authorized the City Manager to proceed with investigation, planning, regulatory review processes, site acquisition, design, and construction of the Halligan Reservoir Enlargement Project, now referred to as the Halligan Water Supply Project (the “Project”); and

WHEREAS, the City is proceeding with Phase 1 of three phases of the Project, which will include site visits and data collection related to the permitting and design work for the reservoir enlargement and replacement or modification of the dam and diversion structures; and

WHEREAS, to accomplish the work of Phase 1, the City needs access to Halligan Reservoir; and

WHEREAS, Chris Vandemoer and Geo. A. Henderson Co. (collectively, “Vandemoer”) jointly own property adjacent to the reservoir and which is encumbered by conservation easements owned by The Nature Conservancy (“TNC”); and

WHEREAS, the primary access to the reservoir and the Halligan dam is by a private road that crosses Vandemoer’s property; and

WHEREAS, pursuant to the authorization by City Council in Ordinance No. 013, 2020, the City is engaged in eminent domain litigation with Vandemoer, TNC, and other parties to acquire access rights along the existing road for Phase 1 of the Project; and

WHEREAS, negotiations with Vandemoer and TNC have led to the possible settlement of access rights and real property acquisitions for all three phases of the Project; and

WHEREAS, part of the proposed settlement with respect to Vandemoer would include a cash payment by the City to Vandemoer as compensation for certain property rights the City would unconditionally acquire from Vandemoer, including land in fee, temporary and permanent access easements, and a permanent inundation easement; and

WHEREAS, the City owns real property at the reservoir by way of a Halligan Reservoir agreement with the North Poudre Irrigation Company (“NPIC”), dated November 8, 1993, pursuant to which NPIC conveyed property to the City and retained the right to the return of that property in the event the City terminates the project to enlarge Halligan Reservoir; and

WHEREAS, as additional consideration for said settlement, the City would convey certain property rights to Vandemoer, conditioned upon the City completing construction of the Project and NPIC’s right to reacquire property either irrevocably lapsing or being expressly released in writing by NPIC; and

WHEREAS, the property rights the City would conditionally convey to Vandemoer are described on Exhibits “A” and “B”, attached hereto and incorporated herein by this reference (the “City Property Rights”); and

WHEREAS, more specifically, the City would conditionally convey to Vandemoer fee interest in certain real property, subject to a restrictive covenant that would limit Vandemoer’s use of the property and subject to a flood easement to allow the City to inundate the property during high water events; and

WHEREAS, the City would also conditionally convey to Vandemoer a permanent shoreline access easement that would allow Vandemoer the use of other City property to access the reservoir; and

WHEREAS, if City Council approves the conditional conveyance, City staff has determined the City will receive sufficient value for the City Property Rights by way of the value of the property rights it would obtain from Vandemoer in the proposed settlement combined with the value of avoiding the risk and expense of eminent domain litigation to obtain property rights for all three phases of the Project; and

WHEREAS, the parties are engaged in ongoing negotiations with the intent of executing a settlement agreement in advance of the Phase 1 eminent domain trial set to begin October 31, 2022; and

WHEREAS, the proposed settlement of all three phases would include the City’s acquisition of property rights that are desirable and necessary for the design, permitting, construction, long-term maintenance and operation of the Project, is in the City’s best interest, and enhances public health, safety, and welfare because it is in furtherance of the Project, which will meet the demands of future Fort Collins Utilities customers and provide added reliability for all Utilities customers; and

WHEREAS, Section 23-111(a) of the City Code authorizes the City Council to sell, convey, or otherwise dispose of any and all interests in real property owned in the name of the City, provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City; and

WHEREAS, Section 23-111(b) of the City Code further requires that, for the conveyance of real property that is part of the City’s water or utility systems, the City Council must also find that the disposition will not materially impair the viability of the particular utility system as a whole and that it will be for the benefit of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determination and findings contained in the recitals set forth above.

Section 2. That the City Council hereby finds and determines, pursuant to Section 23-111(a) of the City Code, that it is necessary in the public interest and in the best interests of the City to conditionally convey the City Property Rights as described herein for the purpose of settling the eminent domain litigation with Vandemoer and TNC so that the City acquires all property interests it needs from Vandemoer and TNC for all three phases of the Project.

Section 3. That the City Council hereby finds and determines, pursuant to Section 23-111(b) of the City Code, that the conveyance of the City Property Rights will not materially impair the viability of the City’s water utility system as a whole and will be for the benefit of the citizens and residents of the City;

Section 4. That the City Council finds and determines, pursuant to Section 23-114 of the City Code, that the disposition of the subject real property interests described in this Ordinance will result in the City receiving value in an amount equal to or greater than the fair market value of such land.

Section 5. That the City Council hereby authorizes the Mayor to execute deeds and other instruments of conveyance to conditionally convey the City Property Rights to Vandemoer, and the City Manager is authorized to execute such other documents related to the property conveyances as may be necessary, all on terms and conditions consistent with this Ordinance, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City, including, but not limited to, any necessary changes to the legal description of such property interest, as long as such changes do not materially increase the size or change the character of the interests to be conveyed.

Introduced, considered favorably on first reading, and ordered published this 4th day of October, A.D. 2022, and to be presented for final passage on the 18th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading this 18th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**DESCRIPTION OF TRACTS OF LAND TO BE CONVEYED IN FEE BY  
THE CITY OF FORT COLLINS TO VANDEMOER – GEO. A. HENDERSON CO. INC.**

TRACTS OF LAND LOCATED IN THE EAST HALF OF SECTION 34, TOWNSHIP 11 NORTH, RANGE 71 WEST OF THE SIXTH PRINCIPAL MERIDIAN; COUNTY OF LARIMER, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THOSE PORTIONS OF THE EAST 400 FEET OF THE SOUTH 1050 FEET OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 34, LYING AT OR ABOVE THE 110-FOOT CONTOUR LINE OF THE HALLIGAN RESERVOIR (NAVD88 6398-FOOT CONTOUR LINE).

**ALSO:**

**BEGINNING** AT THE SOUTHEAST SIXTEENTH CORNER OF SAID SECTION 34, AND CONSIDERING THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 34 TO BEAR N89°59'20"W, SAID LINE BEING MONUMENTED ON BOTH ENDS BY A 3-1/4" ALUMINUM CAP STAMPED LS 30829, BASED UPON THE COLORADO STATE PLANE NORTH ZONE COORDINATE SYSTEM NAD 83(1992), WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE ALONG SAID SOUTH LINE, N89°59'20"W, A DISTANCE OF 551.32 FEET;  
THENCE N41°19'36"W, A DISTANCE OF 289.94 FEET;  
THENCE N56°17'49"W, A DISTANCE OF 168.53 FEET;  
THENCE N05°40'37"E, A DISTANCE OF 121.21 FEET TO THE POINT OF INTERSECTION OF THE CENTER LINE OF AN EXISTING GULCH WITH THE 110-FOOT CONTOUR LINE OF THE HALLIGAN RESERVOIR (NAVD88 6398-FOOT CONTOUR LINE);  
THENCE IN A NORTHEASTERLY DIRECTION ALONG SAID 110-FOOT CONTOUR LINE (NAVD88 6398-FOOT CONTOUR LINE) TO A POINT ON THE EAST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34  
THENCE ALONG SAID EAST LINE, S01°00'06"E, A DISTANCE OF 1,298.26 FEET TO THE **POINT OF BEGINNING.**

**SAID 110-FOOT CONTOUR HAS BEEN DETERMINED TO BE AT NAVD 88 ELEVATION 6398'** THROUGH THE RECOVERY AND GPS SURVEY OF BENCHMARK MARKED "ELEVATION 76.47" ESTABLISHED IN 1910 AND SHOWN ON THE 'MAP OF RESURVEY OF THE HALLIGAN RESERVOIR' APPROVED BY THE STATE ENGINEER ON MARCH 10, 1941 UNDER FILE "DENVER 012781". SAID BENCHMARK IS A NAIL SET FLUSH IN A 1-FOOT BY 1-FOOT CONCRETE PAD Poured INTO NATURAL ROCK MARKED "HALLIGAN DAM ELEV. 76.47". COLORADO NORTH ZONE STATE PLANE COORDINATES NAD83(1992) FOR THIS POINT ARE:

N 1563477.85', E 3045283.95', NAVD 88 ELEVATION OF 6364.27'  
THIS BENCHMARK WILL BE INUNDATED WITH THE PLANNED EXPANSION OF THE RESERVOIR.

SECONDARY BENCHMARK CONTROL INCLUDES:

- 1) CONTROL POINT "CP-905" SET BY SURVCON INC. AS A PART OF THEIR 2003 SURVEY OF THE HALLIGAN RESERVOIR, BEING A PUNCHMARK IN A 3-1/4" ALUMINUM DISK SET IN A ROCK OUTCROPPING LYING APPROXIMATELY 550 FEET SOUTHEAST OF THE EXISTING DAM.

COLORADO NORTH ZONE STATE PLANE COORDINATES NAD83(1992):  
N 1562799.92', E 3045307.92', NAVD 88 ELEVATION OF 6446.06'

- 2) THE CENTER QUARTER CORNER OF SECTION 34 (A NO. 6 REBAR WITH 3-1/4" ALUMINUM CAP STAMPED LS 30829) – COLORADO NORTH ZONE STATE PLANE COORDINATES NAD83(1992):  
N 1563260.74', E 3045370.82', NAVD 88 ELEVATION OF 6400.73'

THE TRACTS CONTAIN A TOTAL OF 22.91 ACRES, MORE OR LESS, AND ARE SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, AND OTHER MATTERS OF RECORD OR THAT NOW EXIST.

---

I HEREBY STATE THAT THE ABOVE DESCRIPTION WAS PREPARED BY ME AND IS TRUE AND CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF, AND OPINION.

JOHN STEVEN VON NIEDA, COLORADO P.L.S. 31169  
FOR AND ON BEHALF OF THE CITY OF FORT COLLINS  
P.O. BOX 580, FORT COLLINS, CO 80522





**DESCRIPTION OF TRACTS OF LAND TO BE RESERVED AS A FLOOD EASEMENT BY  
THE CITY OF FORT COLLINS**

TRACTS OF LAND LOCATED IN THE EAST HALF OF SECTION 34, TOWNSHIP 11 NORTH, RANGE 71 WEST OF THE SIXTH PRINCIPAL MERIDIAN; COUNTY OF LARIMER, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THOSE PORTIONS OF THE EAST 400 FEET OF THE SOUTH 1050 FEET OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 34, LYING AT OR ABOVE THE 110-CONTOUR LINE OF THE HALLIGAN RESERVOIR (NAVD88 6398-FOOT CONTOUR LINE) AND AT OR BELOW THE NAVD88 6414-FOOT CONTOUR LINE.

**ALSO:**

COMMENCING AT THE SOUTHEAST SIXTEENTH CORNER OF SAID SECTION 34, AND CONSIDERING THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 34 TO BEAR N89°59'20"W, SAID LINE BEING MONUMENTED ON BOTH ENDS BY A 3-1/4" ALUMINUM CAP STAMPED LS 30829, BASED UPON THE COLORADO STATE PLANE NORTH ZONE COORDINATE SYSTEM NAD 83(1992), WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE ALONG SAID SOUTH LINE, N89°59'20"W, A DISTANCE OF 551.32 FEET;  
THENCE N41°19'36"W, A DISTANCE OF 289.94 FEET;  
THENCE N56°17'49"W, A DISTANCE OF 168.53 FEET;  
THENCE N05°40'37"E, A DISTANCE OF 91.08 FEET TO A POINT ON THE NAVD88 6414-FOOT CONTOUR LINE, SAID POINT BEING THE **POINT OF BEGINNING**;

THENCE N05°40'37"E, A DISTANCE OF 30.13 FEET TO THE POINT OF INTERSECTION OF THE CENTER LINE OF AN EXISTING GULCH WITH THE 110-FOOT CONTOUR LINE OF THE HALLIGAN RESERVOIR (NAVD88 6398-FOOT CONTOUR LINE);  
THENCE IN A NORTHEASTERLY DIRECTION ALONG SAID 110-FOOT CONTOUR LINE (NAVD88 6398-FOOT CONTOUR LINE) TO A POINT ON THE EAST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34;  
THENCE SOUTHERLY ALONG SAID EAST LINE TO THE SAID NAVD88 6414-FOOT CONTOUR LINE;  
THENCE IN A SOUTHWESTERLY DIRECTION ALONG SAID NAVD88 6414-FOOT CONTOUR LINE TO THE **POINT OF BEGINNING**.

**SAID 110-FOOT CONTOUR HAS BEEN DETERMINED TO BE AT NAVD 88 ELEVATION 6398'** THROUGH THE RECOVERY AND GPS SURVEY OF BENCHMARK MARKED "ELEVATION 76.47" ESTABLISHED IN 1910 AND SHOWN ON THE 'MAP OF RESURVEY OF THE HALLIGAN RESERVOIR' APPROVED BY THE STATE ENGINEER ON MARCH 10, 1941 UNDER FILE "DENVER 012781". SAID BENCHMARK IS A NAIL SET FLUSH IN A 1-FOOT BY 1-FOOT CONCRETE PAD POURED INTO NATURAL ROCK MARKED "HALLIGAN DAM ELEV. 76.47". COLORADO NORTH ZONE STATE PLANE COORDINATES NAD83(1992) FOR THIS POINT ARE:

N 1563477.85', E 3045283.95', NAVD 88 ELEVATION OF 6364.27'  
THIS BENCHMARK WILL BE INUNDATED WITH THE PLANNED EXPANSION OF THE RESERVOIR.  
SECONDARY BENCHMARK CONTROL INCLUDES:

- 1) CONTROL POINT "CP-905" SET BY SURVCON INC. AS A PART OF THEIR 2003 SURVEY OF THE HALLIGAN RESERVOIR, BEING A PUNCHMARK IN A 3-1/4" ALUMINUM DISK SET IN A ROCK OUTCROPPING LYING APPROXIMATELY 550 FEET SOUTHEAST OF THE EXISTING DAM.  
COLORADO NORTH ZONE STATE PLANE COORDINATES NAD83(1992):  
N 1562799.92', E 3045307.92', NAVD 88 ELEVATION OF 6446.06'
- 2) THE CENTER QUARTER CORNER OF SECTION 34 (A NO. 6 REBAR WITH 3-1/4" ALUMINUM CAP STAMPED LS 30829) – COLORADO NORTH ZONE STATE PLANE COORDINATES NAD83(1992):  
N 1563260.74', E 3045370.82', NAVD 88 ELEVATION OF 6400.73'

THE TRACTS CONTAIN A TOTAL OF 3.50 ACRES, MORE OR LESS, AND ARE SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, AND OTHER MATTERS OF RECORD OR THAT NOW EXIST.

---

I HEREBY STATE THAT THE ABOVE DESCRIPTION WAS PREPARED BY ME AND IS TRUE AND CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF, AND OPINION.

JOHN STEVEN VON NIEDA, COLORADO P.L.S. 31169  
FOR AND ON BEHALF OF THE CITY OF FORT COLLINS  
P.O. BOX 580, FORT COLLINS, CO 80522

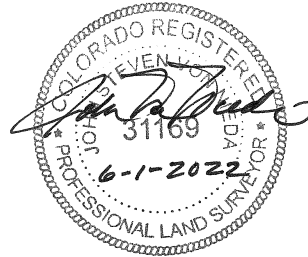
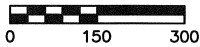


EXHIBIT OF  
 FEE CONVEYANCE FROM THE CITY OF FORT COLLINS TO VANDEMOER –  
 GEO A. HENDERSON CO. INC., AND RESERVATION OF FLOOD EASEMENT  
 BY THE CITY OF FORT COLLINS  
 (SHEET 1)



MAY 2, 2022  
 1"=300'



NE 1/16 COR.  
 SEC 34-11-71  
 NO. 6 REBAR WITH  
 3-1/4" ALUM. CAP  
 STAMPED PLS 30829

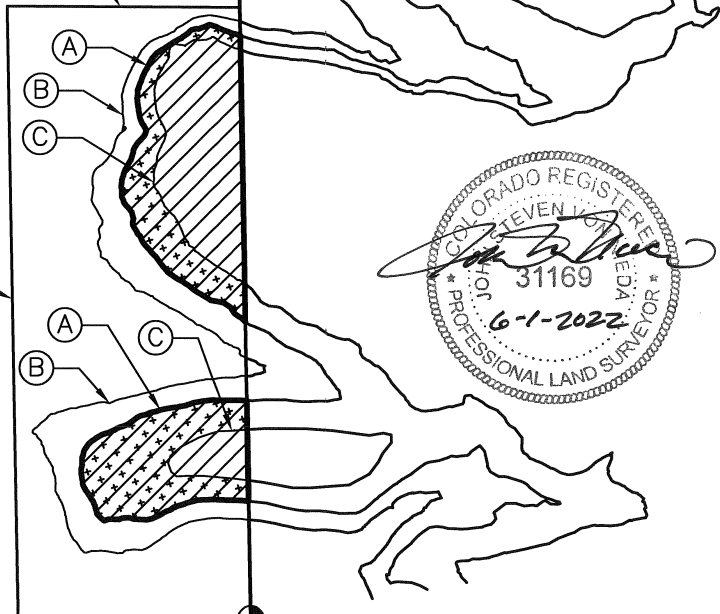
N. LINE OF THE SOUTH  
 1050' OF THE SW 1/4 OF  
 NE 1/4 SEC. 34-11-71

SW 1/4 OF NE 1/4  
 SEC. 34-11-71

W. LINE OF THE EAST 400'  
 OF THE SW 1/4 OF NE 1/4  
 SEC. 34-11-71

C 1/4 COR.  
 SEC 34-11-71  
 NO. 6 REBAR WITH  
 3-1/4" ALUM. CAP  
 STAMPED PLS 30829

C-E 1/16 COR.  
 SEC 34-11-71  
 NO. 6 REBAR WITH  
 3-1/4" ALUM. CAP  
 STAMPED PLS 30829




SEE SHEET 2

NOTE: 110-FOOT CONTOUR HAS BEEN DETERMINED TO BE AT NAVD 88 ELEVATION 6398' THROUGH 1) THE RECOVERY AND GPS SURVEY OF THE BENCHMARK MARKED "ELEVATION 76.47" ESTABLISHED IN 1910 AND SHOWN ON THE 'MAP OF RESURVEY OF THE HALLIGAN RESERVOIR', AND 2) THE SURVEY OF THE SPILLWAY WHOSE ELEVATION IS 70' AS INDICATED ON SAID MAP.

THIS EXHIBIT'S SOLE INTENT IS TO GRAPHICALLY REPRESENT AND AUGMENT THE ATTACHED PROPERTY DESCRIPTION. IT DOES NOT REPRESENT A MONUMENTED LAND SURVEY AS DEFINED IN C.R.S. 38-51-102. IN THE EVENT OF DISCREPANCIES BETWEEN THIS EXHIBIT AND THE ATTACHED PROPERTY DESCRIPTION, THE INFORMATION CONTAINED WITHIN THE ATTACHED PROPERTY DESCRIPTION SHOULD BE RELIED UPON.

- (A) 110-FT CONTOUR LINE OF THE HALLIGAN RES. (ELEV. 6398' - NAVD88) (SEE NOTE)
- (B) CONTOUR LINE AT NAVD88 ELEV. 6384' (PERMANENT WATER SURFACE ELEV.)
- (C) CONTOUR LINE AT NAVD88 ELEV. 6414' (30' ABOVE PERMANENT WATER SURFACE ELEV.)

 AREA TO BE CONVEYED IN FEE TO VANDEMOER – GEO. A. HENDERSON CO. INC. (22.91 TOTAL ACRES) [2.83 AC. SHEET 1 & 20.08 AC. SHEET 2]


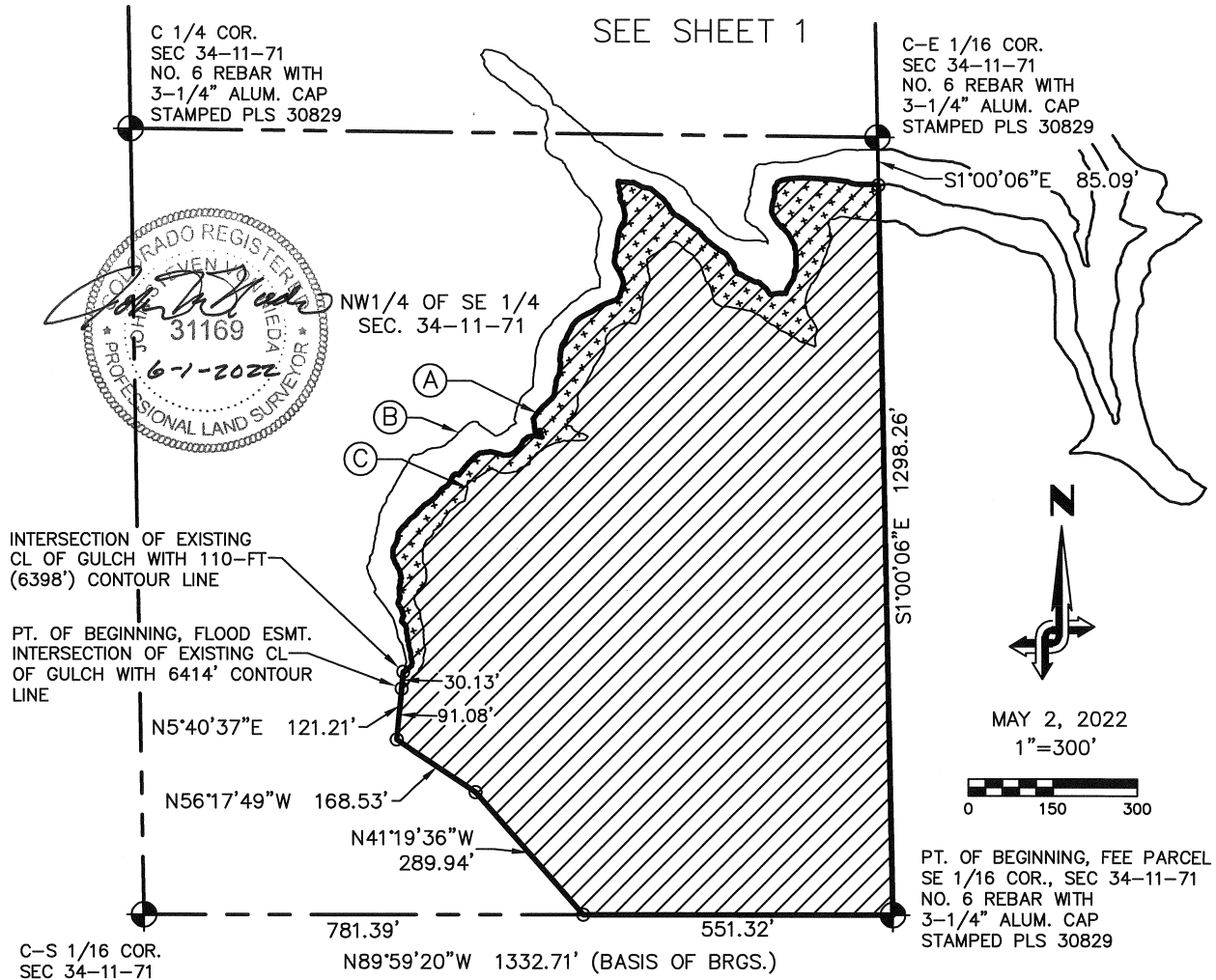
 AREA TO BE RESERVED BY THE CITY OF FORT COLLINS AS A FLOOD EASEMENT. (3.50 TOTAL ACRES) [1.46 AC. SHEET 1 & 2.04 AC. SHEET 2]

EXHIBIT OF  
 FEE CONVEYANCE FROM THE CITY OF FORT COLLINS TO VANDEMOER –  
 GEO A. HENDERSON CO. INC., AND RESERVATION OF FLOOD EASEMENT  
 BY THE CITY OF FORT COLLINS  
 (SHEET 2)



NOTE: 110-FOOT CONTOUR HAS BEEN DETERMINED TO BE AT NAVD 88 ELEVATION 6398' THROUGH 1) THE RECOVERY AND GPS SURVEY OF THE BENCHMARK MARKED "ELEVATION 76.47" ESTABLISHED IN 1910 AND SHOWN ON THE 'MAP OF RESURVEY OF THE HALLIGAN RESERVOIR', AND 2) THE SURVEY OF THE SPILLWAY WHOSE ELEVATION IS 70' AS INDICATED ON SAID MAP.

THIS EXHIBIT'S SOLE INTENT IS TO GRAPHICALLY REPRESENT AND AUGMENT THE ATTACHED PROPERTY DESCRIPTION. IT DOES NOT REPRESENT A MONUMENTED LAND SURVEY AS DEFINED IN C.R.S. 38-51-102. IN THE EVENT OF DISCREPANCIES BETWEEN THIS EXHIBIT AND THE ATTACHED PROPERTY DESCRIPTION, THE INFORMATION CONTAINED WITHIN THE ATTACHED PROPERTY DESCRIPTION SHOULD BE RELIED UPON.

- (A) 110-FT CONTOUR LINE OF THE HALLIGAN RES. (ELEV. 6398' - NAVD88) (SEE NOTE)
- (B) CONTOUR LINE AT NAVD88 ELEV. 6384' (PERMANENT WATER SURFACE ELEV.)
- (C) CONTOUR LINE AT NAVD88 ELEV. 6414' (30' ABOVE PERMANENT WATER SURFACE ELEV.)



AREA TO BE CONVEYED IN FEE TO VANDEMOER – GEO. A. HENDERSON CO. INC. (22.91 TOTAL ACRES) [2.83 AC. SHEET 1 & 20.08 AC. SHEET 2]



AREA TO BE RESERVED BY THE CITY OF FORT COLLINS AS A FLOOD EASEMENT. (3.50 TOTAL ACRES) [1.46 AC. SHEET 1 & 2.04 AC. SHEET 2]

S:\Engineering\Departments\Survey\Projects\Water & Sewer\Halligan\Halligan Official drawing 2018.dwg

**DESCRIPTION OF A SHORELINE ACCESS EASEMENT TO BE CONVEYED BY  
THE CITY OF FORT COLLINS TO VANDEMOER – GEO. A. HENDERSON CO. INC.**

TRACTS OF LAND LOCATED IN THE EAST HALF OF SECTION 34, TOWNSHIP 11 NORTH, RANGE 71 WEST OF THE SIXTH PRINCIPAL MERIDIAN; COUNTY OF LARIMER, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THOSE PORTIONS OF THE EAST 400 FEET OF THE SOUTH 1050 FEET OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 34, LYING AT OR BELOW THE 110-CONTOUR LINE OF THE HALLIGAN RESERVOIR (NAVD88 6398-FOOT CONTOUR LINE) AND AT OR ABOVE THE NAVD88 6384-FOOT CONTOUR LINE.

ALSO:

COMMENCING AT THE SOUTHEAST SIXTEENTH CORNER OF SAID SECTION 34, AND CONSIDERING THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 34 TO BEAR N89°59'20"W, SAID LINE BEING MONUMENTED ON BOTH ENDS BY A 3-1/4" ALUMINUM CAP STAMPED LS 30829, BASED UPON THE COLORADO STATE PLANE NORTH ZONE COORDINATE SYSTEM NAD 83(1992), WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE ALONG SAID SOUTH LINE, N89°59'20"W, A DISTANCE OF 551.32 FEET;  
 THENCE N41°19'36"W, A DISTANCE OF 289.94 FEET;  
 THENCE N56°17'49"W, A DISTANCE OF 168.53 FEET;  
 THENCE N05°40'37"E, A DISTANCE OF 121.21 FEET TO THE POINT OF INTERSECTION OF THE CENTER LINE OF AN EXISTING GULCH WITH THE 110-FOOT CONTOUR LINE OF THE HALLIGAN RESERVOIR (NAVD88 6398-FOOT CONTOUR LINE), SAID POINT BEING THE **POINT OF BEGINNING**;  
 THENCE NORTHERLY ALONG SAID CENTER LINE OF GULCH TO ITS INTERSECTION WITH THE NAVD88 6384-FOOT CONTOUR LINE;  
 THENCE IN A NORTHEASTERLY DIRECTION ALONG SAID 6384-FOOT CONTOUR LINE TO A POINT ON THE EAST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34;  
 THENCE SOUTHERLY ALONG SAID EAST LINE TO THE SAID 110-FOOT CONTOUR LINE (NAVD88 6398-FOOT CONTOUR LINE);  
 THENCE IN A SOUTHWESTERLY DIRECTION ALONG SAID 110-FOOT CONTOUR LINE (NAVD88 6398-FOOT CONTOUR LINE) TO THE **POINT OF BEGINNING**.

**SAID 110-FOOT CONTOUR HAS BEEN DETERMINED TO BE AT NAVD 88 ELEVATION 6398'** THROUGH THE RECOVERY AND GPS SURVEY OF BENCHMARK MARKED "ELEVATION 76.47" ESTABLISHED IN 1910 AND SHOWN ON THE 'MAP OF RESURVEY OF THE HALLIGAN RESERVOIR' APPROVED BY THE STATE ENGINEER ON MARCH 10, 1941 UNDER FILE "DENVER 012781". SAID BENCHMARK IS A NAIL SET FLUSH IN A 1-FOOT BY 1-FOOT CONCRETE PAD POURED INTO NATURAL ROCK MARKED "HALLIGAN DAM ELEV. 76.47". COLORADO NORTH ZONE STATE PLANE COORDINATES NAD83(1992) FOR THIS POINT ARE:

N 1563477.85', E 3045283.95', NAVD 88 ELEVATION OF 6364.27'

THIS BENCHMARK WILL BE INUNDATED WITH THE PLANNED EXPANSION OF THE RESERVOIR.

SECONDARY BENCHMARK CONTROL INCLUDES:

- 1) CONTROL POINT "CP-905" SET BY SURVCON INC. AS A PART OF THEIR 2003 SURVEY OF THE HALLIGAN RESERVOIR, BEING A PUNCHMARK IN A 3-1/4" ALUMINUM DISK

SET IN A ROCK OUTCROPPING LYING APPROXIMATELY 550 FEET SOUTHEAST OF THE EXISTING DAM.

COLORADO NORTH ZONE STATE PLANE COORDINATES NAD83(1992):

N 1562799.92', E 3045307.92', NAVD 88 ELEVATION OF 6446.06'

- 2) THE CENTER QUARTER CORNER OF SECTION 34 (A NO. 6 REBAR WITH 3-1/4" ALUMINUM CAP STAMPED LS 30829) – COLORADO NORTH ZONE STATE PLANE COORDINATES NAD83(1992):

N 1563260.74', E 3045370.82', NAVD 88 ELEVATION OF 6400.73'

IT IS THE INTENT OF THIS RESERVATION THAT THE EASEMENT SHALL ALSO INCLUDE ADDITIONAL AREAS IMMEDIATELY ADJACENT AND BELOW THE 6384' ELEVATION TO THE ACTUAL ELEVATION OF THE RESERVOIR WATER LEVEL, BUT ONLY WHEN AND TO THE EXTENT THE ACTUAL ELEVATION OF THE RESERVOIR WATER LEVEL IS BELOW THE 6384' ELEVATION.

THE TRACTS CONTAIN A MINIMUM OF 3.71 ACRES, MORE OR LESS, AND ARE SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, AND OTHER MATTERS OF RECORD OR THAT NOW EXIST.

---

I HEREBY STATE THAT THE ABOVE DESCRIPTION WAS PREPARED BY ME AND IS TRUE AND CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF, AND OPINION.

JOHN STEVEN VON NIEDA, COLORADO P.L.S. 31169  
FOR AND ON BEHALF OF THE CITY OF FORT COLLINS  
P.O. BOX 580, FORT COLLINS, CO 80522

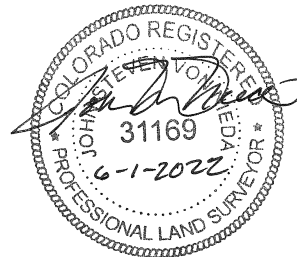
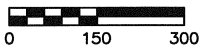


EXHIBIT OF  
SHORELINE ACCESS EASEMENT FROM THE CITY OF FORT COLLINS TO  
VANDEMOER – GEO A. HENDERSON CO. INC.  
(SHEET 1)



MAY 2, 2022  
1"=300'



NE 1/16 COR.  
SEC 34-11-71  
NO. 6 REBAR WITH  
3-1/4" ALUM. CAP  
STAMPED PLS 30829

N. LINE OF THE SOUTH  
1050' OF THE SW 1/4 OF  
NE 1/4 SEC. 34-11-71

SW 1/4 OF NE 1/4  
SEC. 34-11-71

W. LINE OF THE EAST 400'  
OF THE SW 1/4 OF NE 1/4  
SEC. 34-11-71

C 1/4 COR.  
SEC 34-11-71  
NO. 6 REBAR WITH  
3-1/4" ALUM. CAP  
STAMPED PLS 30829

C-E 1/16 COR.  
SEC 34-11-71  
NO. 6 REBAR WITH  
3-1/4" ALUM. CAP  
STAMPED PLS 30829

SEE SHEET 2

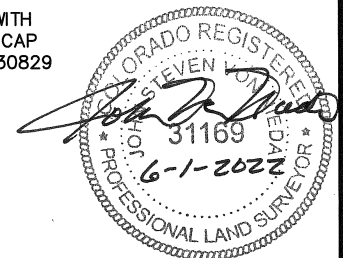
NOTE: 110-FOOT CONTOUR HAS BEEN DETERMINED TO BE AT NAVD 88 ELEVATION 6398' THROUGH 1) THE RECOVERY AND GPS SURVEY OF THE BENCHMARK MARKED "ELEVATION 76.47" ESTABLISHED IN 1910 AND SHOWN ON THE 'MAP OF RESURVEY OF THE HALLIGAN RESERVOIR, AND 2) THE SURVEY OF THE SPILLWAY WHOSE ELEVATION IS 70' AS INDICATED ON SAID MAP.

THIS EXHIBIT'S SOLE INTENT IS TO GRAPHICALLY REPRESENT AND AUGMENT THE ATTACHED PROPERTY DESCRIPTION. IT DOES NOT REPRESENT A MONUMENTED LAND SURVEY AS DEFINED IN C.R.S. 38-51-102. IN THE EVENT OF DISCREPANCIES BETWEEN THIS EXHIBIT AND THE ATTACHED PROPERTY DESCRIPTION, THE INFORMATION CONTAINED WITHIN THE ATTACHED PROPERTY DESCRIPTION SHOULD BE RELIED UPON.

- (A) 110-FT CONTOUR LINE OF THE HALLIGAN RES. (ELEV. 6398' - NAVD88) (SEE NOTE)
- (B) CONTOUR LINE AT NAVD88 ELEV. 6384' (PERMANENT WATER SURFACE ELEV.)
- (C) CONTOUR LINE AT NAVD88 ELEV. 6414' (30' ABOVE PERMANENT WATER SURFACE ELEV.)

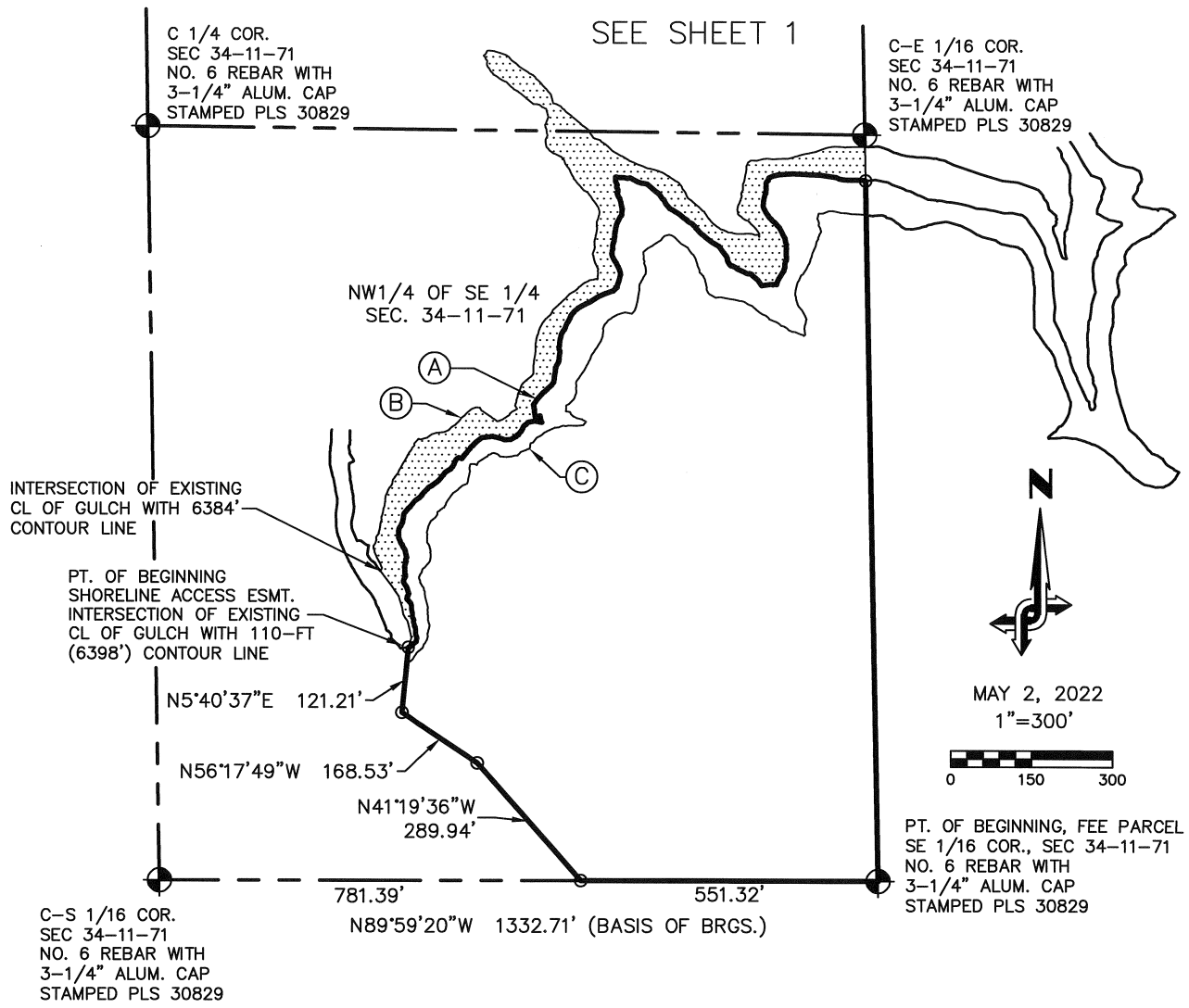


AREA TO BE CONVEYED AS SHORELINE ACCESS EASEMENT TO VANDEMOER – GEO. A. HENDERSON CO. INC. (3.71 TOTAL ACRES MINIMUM) [1.57 AC. SHEET 1 & 2.14 AC. SHEET 2]

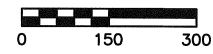


S:\Engineering\Departments\Survey\Projects\Water & Sewer\Halligan\Halligan Official drawing 2018.dwg

EXHIBIT OF  
 SHORELINE ACCESS EASEMENT FROM THE CITY OF FORT COLLINS TO  
 VANDEMOER – GEO A. HENDERSON CO. INC.  
 (SHEET 2)



MAY 2, 2022  
 1"=300'



PT. OF BEGINNING, FEE PARCEL  
 SE 1/16 COR., SEC 34-11-71  
 NO. 6 REBAR WITH  
 3-1/4" ALUM. CAP  
 STAMPED PLS 30829

NOTE: 110-FOOT CONTOUR HAS BEEN DETERMINED TO BE AT NAVD 88 ELEVATION 6398' THROUGH 1) THE RECOVERY AND GPS SURVEY OF THE BENCHMARK MARKED "ELEVATION 76.47" ESTABLISHED IN 1910 AND SHOWN ON THE 'MAP OF RESURVEY OF THE HALLIGAN RESERVOIR', AND 2) THE SURVEY OF THE SPILLWAY WHOSE ELEVATION IS 70' AS INDICATED ON SAID MAP.

THIS EXHIBIT'S SOLE INTENT IS TO GRAPHICALLY REPRESENT AND AUGMENT THE ATTACHED PROPERTY DESCRIPTION. IT DOES NOT REPRESENT A MONUMENTED LAND SURVEY AS DEFINED IN C.R.S. 38-51-102. IN THE EVENT OF DISCREPANCIES BETWEEN THIS EXHIBIT AND THE ATTACHED PROPERTY DESCRIPTION, THE INFORMATION CONTAINED WITHIN THE ATTACHED PROPERTY DESCRIPTION SHOULD BE RELIED UPON.

- (A) 110-FT CONTOUR LINE OF THE HALLIGAN RES. (ELEV. 6398' - NAVD88) (SEE NOTE)
- (B) CONTOUR LINE AT NAVD88 ELEV. 6384' (PERMANENT WATER SURFACE ELEV.)
- (C) CONTOUR LINE AT NAVD88 ELEV. 6414' (30' ABOVE PERMANENT WATER SURFACE ELEV.)

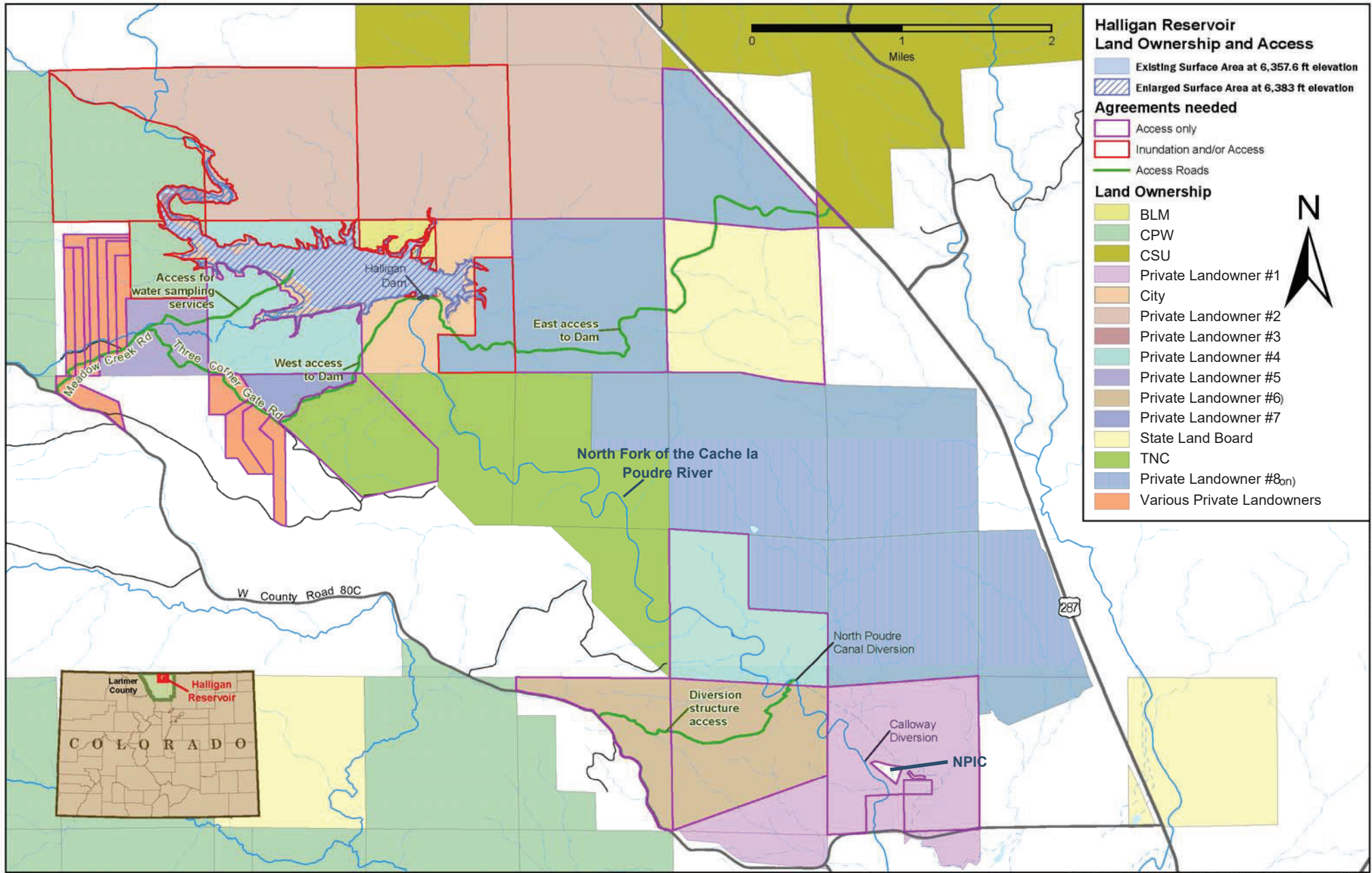


AREA TO BE CONVEYED AS SHORELINE ACCESS EASEMENT TO VANDEMOER – GEO. A. HENDERSON CO. INC. (3.71 TOTAL ACRES MINIMUM) [1.57 AC. SHEET 1 & 2.14 AC. SHEET 2]

S:\Engineering\Departments\Survey\Projects\Water & Sewer\Halligan\Halligan Official drawing 2018.dwg



# Vicinity Map



Document Path: X:\GIS\Water\_Projects\WART\_Projects\Halligan\MSD\HalliganReservoir\ParcelOwnership\mapx2019.mxd

October 4, 2022



## AGENDA ITEM SUMMARY

City Council

---

### STAFF

John Phelan, Energy Services Senior Manager and Policy Advisor  
 Leland Keller, Energy Services Engineer  
 Cyril Vidergar, Legal

---

### SUBJECT

**First Reading of Ordinance No. 106, 2022, Amending Chapter 26 of the Code of the City of Fort Collins Regarding Net Metered Renewable Energy Generation System Sizing and Adopting Administrative Rules for Net Metered System Sizing.**

---

### EXECUTIVE SUMMARY

This Ordinance amends sizing requirements in City Code that limit the generating size (i.e. production capacity) of renewable energy systems, removing reference to 120% of a customer's annual electric consumption and adopts administrative program rules to guide the Utilities' Executive Director to define allowable generation system sizing consistent with the City's 2030 energy and climate goals.

---

### STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

---

### BACKGROUND / DISCUSSION

Renewable energy system generation sizing requirements in City Code tied to 120% of customer consumption (the "120% Rule") were designed as a financial limit, mitigating the financial exposure for Fort Collins Utilities in paying retail solar credit rates by limiting the size of customer-sited generation. As Fort Collins seeks to achieve the ambitious target of 5% of energy delivered in 2030 to be generated by local renewable resources, as well as the electrification of transportation and buildings, the existing sizing requirements represent an inflexible constraint on that effort, imposing a point-in-time limit on how and when customers can make investments in electrification and renewable generation.

Administrative rules submitted for Council adoption with this Ordinance, in combination with Utilities metering standards and electric rates, provide similar financial risk management as the 120% Rule, while aligning with policies and strategies to achieve 2030 goals.

This Ordinance does not propose changes to solar credit rates. Rather, solar credit rates will be included with the electric rate agenda item at the Council meeting November 1.

#### **Understanding the Existing 120% Rule Sizing Requirement**

The existing City Code Sections governing electric rates (Sec. 26-464 for residential and all rate categories following) limit the size of a renewable energy generation system (typically solar) to a production capacity

of no more than 120% of a customer's annual historical electric use. The intent of the 120% Rule is to support customers who want to self-generate electricity in an amount that matches their typical annual use and enables them to offset a majority of their electric bill (i.e. net-metering), rather than creating a situation where Utilities is buying/crediting for excess energy produced by customers whose generation significantly exceeds their regular consumption.

### 120% Rule Key Points

- The intent was to set a practical financial limit; it was not related to distribution system requirements or capacity.
- The 120% Rule is defined in City Code and was aligned with state statute until the passage of [SB21-261](#) in 2021, which expanded the sizing limit to 200% in other Colorado utility service territories.
- The 120% Rule is currently applied only at the time of solar system interconnection application and is not tracked or (re)calculated related to electric use by subsequent homeowners.
- Additional sizing limitations on solar systems include the National Electric Code (NEC) related to the home's electric panel and the customer service entrance capacity.
- The proposed changes to City Code will not affect reference to 120% sizing in the Platte River Power Supply Agreement that constrains renewable generation system sizing in circumstances where a third party is the generator, rather than the utility electric customer.

### Why Replace the 120% Code Language with Administrative Rules

The 120% Rule has been an effective tool for many years. However, new practices are needed that will better serve updated community climate and renewable strategies along with existing advanced metering and time-based electric rates. Utilities and Platte River are planning for widespread solar adoption by 2030 with an estimated 5,000 to 7,000 solar systems in place providing between 60 and 75 megawatts of capacity.

More flexibility for customer solar generation under administrative policies, maintained by the Utilities Executive Director pursuant to Section 26-463 of the City Code will:

- *Encourage* solar systems that serve increased use from electrification (e.g. electric vehicles, heat pumps). Customers are regularly inquiring about sizing their solar systems to accommodate increased usage as they electrify their home heating, cooking and transportation. These electrification strategies are a key strategy for Our Climate Future and will be essential to reducing emissions from natural gas and petroleum.
- *Accelerate* local solar contribution to reaching community renewable electricity goals. The increased size of solar systems envisioned supports the ambitious target of reaching 5% local renewable electricity, as a part of our 100% renewable electricity goal by 2030. With aligned rate and incentive components, this is an effective approach to leverage customer interest and investment.
- *Simplify* and streamline solar application and interconnection processes for customers, solar trade allies and staff. The 120% Rule adds multiple evaluation steps to the solar application process for all parties without providing significant short or long-term benefit.

Additional rationale for replacing the 120% Rule include:

- It is applied as a one-time estimate when a new solar application is received. It represents only a snapshot of the home and current customer.
- It does not take into account a customer's future potential electrification, nor can it be used for customers without a use history (e.g. new home or recent move). There is no tracking of usage of homes with solar that change ownership or when a customer's household situation changes.
- As solar has become common, residents are purchasing existing homes with solar, and the system sizing may not be aligned with the new household's usage.

## **CITY FINANCIAL IMPACTS**

---

Adoption of this ordinance has no direct impact to City finances. Utilities uses the Budgeting for Outcomes process to plan for purchases of surplus renewable energy from solar customers based on the applicable rate structures adopted by Council.

## **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

---

The Energy Board voted to recommend Council adopt the Ordinance based on the materials presented and discussion at the September 8, 2022, Energy Board meeting.

## **PUBLIC OUTREACH**

---

Utilities shared a draft of the proposed administrative rules with the Colorado Solar and Storage Association and gathered input from local solar contractors, each of whom voiced enthusiastic support.

## **ATTACHMENTS**

---

1. Ordinance for Consideration
2. Exhibit A
3. Work Session Summary, June 28, 2022
4. Presentation

ORDINANCE NO. 106, 2022  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTER 26 OF THE CODE OF THE CITY OF FORT COLLINS  
REGARDING NET METERED RENEWABLE ENERGY GENERATION SYSTEM SIZING  
AND ADOPTING ADMINISTRATIVE RULES FOR NET METERED SYSTEM SIZING

WHEREAS, Chapter 26 of the City Code regulates and governs the provision of utility services, and sets forth definitions and terms for applying fees and bill-credits for delivery of specified utility services; and

WHEREAS, such provisions require periodic updating and modification for purposes of clarification and to ensure that the Code remains a dynamic document capable of responding to issues identified by staff, customers, residents and changing technology for and manner of delivering utility services; and

WHEREAS, Utilities staff has identified provisions of Chapter 26 of the Code where updates to net metered customer solar generation project sizing criteria are required to align with Colorado statute, Utility practices, and the City's Energy Policy and Climate Action Plan goals; and

WHEREAS, on March 3, 2015, City Council adopted Resolution 2015-030, updating City Energy Policy and Climate Action Plan goals to reduce emissions to 20% below 2005 levels by 2020, to 80% below 2005 levels by 2030, and to be carbon neutral by 2050; and

WHEREAS, on December 6, 2011, City Council adopted Ordinance No. 166, 2011, enacting a rate structure to encourage customer net metered energy generation and further City Energy Policy and Climate Action Plan goals; and

WHEREAS, on August 20, 2019, the City Council adopted Resolution 2019-091, acknowledging the global climate emergency and reaffirming the City's commitment to climate action, as reflected in City Energy Policy and Climate Action Plan goals; and

WHEREAS, since 2011, Chapter 26 of the City Code reflected the sizing limit on new customer net metered energy generation systems found in Colorado Revised Statutes §40-2-124, i.e. systems sized to supply no more than one hundred twenty percent of the average annual consumption of electricity by the consumer at the customer's site ("120% Rule"); and

WHEREAS, in 2021, the Colorado General Assembly adopted SB 21-261, amending the statutory sizing limit on customer net metered energy generation systems to allow sizes up to 200% of the "reasonably expected annual total consumption of electricity at all properties owned or leased by a customer within a public utility's service territory"; and

WHEREAS, Section 26-463 of the City Code provides that rules, regulations, and standards applicable to electric service and persons receiving electric service provided by the City may be adopted by the Utilities Executive Director and approved by ordinance of the City Council; and

WHEREAS, Sections 26-464 through 26-470 of the City Code provide that the Utilities Executive Director may advance programs to assist customers or provide incentives to customers to reduce energy consumption in furtherance of Council-adopted policies; and

WHEREAS, on June 28, 2022, Utilities staff presented to Council a recommendation to remove the 120% Rule language from Chapter 26 of the City Code to incentivize customer investment in net metered energy generation systems up to size limits set by the Utilities Executive Director based on Council-approved administrative rules; and

WHEREAS, the proposed Renewable Energy System Sizing administrative rules attached hereto as Exhibit "A" establish criteria to consider when energy consumption is not a reliable factor for limiting the size of a customer's new net metered system; and

WHEREAS, on September 8, 2022, the Energy Board reviewed the Renewable Energy System Sizing administrative rules, and unanimously recommended approval by Council; and

WHEREAS, the City Council has determined it is desirable to maintain appropriate net metering utility service practices and the recommended update of such practices in the City Code, as set forth herein, is in furtherance of benefits available to utility ratepayers; and

WHEREAS, the Utilities Executive Director recommends Council approve the administrative rules in Exhibit "A," incorporated by this reference, to update system sizing practices and incentivize customer investment in net metered energy generation systems; and

WHEREAS, the City Council has determined that continued customer investment in net metered energy generation systems directly benefits electric utility ratepayers by facilitating local renewable energy generation, and the recommended administrative rules, regulations, and standards set forth in Exhibit "A" are in the best interests of the electric utility and its customers.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 26-463(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-463. - Electric rates; general service rules, regulations and interconnection standards.**

- (a) The rules, regulations and Interconnection Standards for Generating Facilities Connected to the Fort Collins Distribution System applicable to electric service and persons **generating electricity or** receiving electric service from the City shall be such rules, regulations and Interconnection Standards for Generating Facilities Connected to the Fort

Collins Distribution System as are adopted by the Utilities Executive Director and approved by ordinance of the City Council.

...

Section 3. That Section 26-464(h), (p)(1)a. and (r)(1)b. of the Code of the City of Fort Collins are hereby amended to read as follows:

**Sec. 26-464. - Residential energy service, schedule R.**

...

(h) *Conservation assistance, rebates and incentives.* The utility may establish programs to assist customers or provide incentives to customers in order to reduce energy consumption or system peak demands consistent with Council-adopted policy applicable to the utility. Such programs may include financial or technical assistance, incentives or rebates and shall be consistent with program objectives approved by the Utilities Executive Director. **The Utilities Executive Director will notify Council of changes to the reference customer class average annual electricity consumption size used to evaluate net metered systems.**

...

(p) *Net metering.*

(1) ...

a. The qualifying facility is sized **according to program objectives set by the Utilities Executive Director under Subsection (h) of this Section to supply no more than two ~~one-hundred-twenty (120)~~ (200) percent of a customer class average annual electricity consumption or the customer-generator's average annual electricity consumption at that site including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way. The customer class average annual electricity consumption size will be reviewed annually by the Utilities Executive Director under Subsection (h) of this Section; and**

...

(r) *Net metering—Community solar projects.*

(1) ...

b. The generating capacity of the customer's interest in a subscriber-owned facility is sized **according to program objectives set by the Utilities Executive Director under Subsection (h) of this Section to supply no more**

than two ~~one-hundred-twenty (120)~~(200) percent of a customer class average annual electricity consumption or the customer-generator's average annual electricity consumption at the customer-generator's point of service, including all contiguous property owned or leased by the customer, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way. The customer class average annual electricity consumption size will be reviewed annually by the Utilities Executive Director under Subsection (h) of this Section.

...

Section 4. That Section 26-465(h), (q)(1)a. and (r)(1)b. of the Code of the City of Fort Collins are hereby amended to read as follows:

**Sec. 26-465. - All-electric residential service, schedule RE.**

...

(h) *Conservation assistance, rebates and incentives.* The utility may establish programs to assist customers or provide incentives to customers in order to reduce energy consumption or system peak demands consistent with Council-adopted policy applicable to the utility. Such programs may include financial or technical assistance, incentives or rebates and shall be consistent with program objectives approved by the Utilities Executive Director. The Utilities Executive Director will notify Council of changes to the reference customer class average annual electricity consumption size used to evaluate net metered systems.

...

(q) *Net metering.*

(1) ...

a. The qualifying facility is sized according to program objectives set by the Utilities Executive Director under Subsection (h) of this Section to supply no more than two ~~one-hundred-twenty (120)~~(200) percent of a customer class average annual electricity consumption or the customer-generator's average annual electricity consumption at that site including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way. The customer class average annual electricity consumption size will be reviewed annually by the Utilities Executive Director under Subsection (h) of this Section; and

...



(r) *Net metering—Community solar projects.*

(1) ...

b. The generating capacity of the customer's interest in a subscriber-owned facility is sized according to program objectives set by the Utilities Executive Director under Subsection (h) of this Section to supply no more than two ~~one-hundred-twenty (120)~~ (200) percent of a customer class average annual electricity consumption or the customer-generator's average annual electricity consumption at the customer's point of service, including all contiguous property owned or leased by the customer, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way. The customer class average annual electricity consumption size will be reviewed annually by the Utilities Executive Director under Subsection (h) of this Section.

...

Section 5. That Section 26-466(q)(1)a. and (r)(1) of the Code of the City of Fort Collins are hereby amended to read as follows:

**Sec. 26-466. - General service, schedule GS.**

...

(q) *Net metering.*

(1) ...

a. The qualifying facility is sized according to program objectives set by the Utilities Executive Director under Subsection (g) of this Section to supply no more than two ~~one-hundred-twenty (120)~~ (200) percent of the customer-generator's average annual electricity consumption at that site including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way; and; and

...

(r) *Net metering—community solar projects.*

(1) Net metering service is available to a customer who holds an exclusive interest in a portion of the electric energy generated by a community solar project

when the generating capacity of the customer's interest is sized according to program objectives set by the Utilities Executive Director under Subsection (g) of this Section to supply no more than two ~~one-hundred-twenty (120)~~(200) percent of the customer-generator's average annual electricity consumption at the customer's point of service, including all contiguous property owned or leased by the customer, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way.

...

Section 6. That Section 26-467(r)(1)a. of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-467. - General service 25, schedule GS25.**

...

(r) *Net metering.*

(1) ...

a. The qualifying facility is sized according to program objectives set by the Utilities Executive Director under Subsection (h) of this Section to supply no more than two ~~one-hundred-twenty (120)~~(200) percent of the customer-generator's average annual electricity consumption at that site, including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way; and

...

Section 7. That Section 26-468(u)(1)a. of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-468. - General service 50, schedule GS50.**

...

(u) *Net metering.*

(1) ...

a. The qualifying facility is sized according to program objectives set by the Utilities Executive Director under Subsection (i) of this Section to supply no more than two ~~one-hundred-twenty (120)~~(200) percent of the customer-generator's average annual electricity consumption at that site, including all contiguous property owned or leased by the customer-

generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way; and

...

Section 8. That Section 26-469(v)(1)a. of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-469. - General service 750, schedule GS750.**

...

(v) *Net metering.*

(1) ...

a. The qualifying facility is sized according to program objectives set by the Utilities Executive Director under Subsection (i) of this Section to supply no more than two ~~one-hundred-twenty (120)~~ (200) percent of the customer-generator's average annual electricity consumption at that site, including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way; and

...

Section 9. That Section 26-470(s)(1)a. of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-470. - Substation service, schedule SS.**

...

(s) *Net metering.*

(1) ...

a. The qualifying facility is sized according to program objectives set by the Utilities Executive Director under Subsection (g) of this Section to supply no more than two ~~one-hundred-twenty (120)~~ (200) percent of the customer-generator's average annual electricity consumption at that site, including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by

easements, public thoroughfares, transportation rights-of-way or utility rights-of-way; and

...

Section 10. That the Renewable Energy System Sizing administrative rules set forth in Exhibit "A," attached hereto and incorporated herein by this reference, are hereby approved by the City Council pursuant to Section 26-463(a) of the City Code.

Introduced, considered favorably on first reading, and ordered published this 4th day of October, A.D. 2022, and to be presented for final passage on the 18th day of October, A.D. 2022.

---

Mayor

ATTEST:

---

City Clerk

Passed and adopted on final reading this 18th day of October, A.D. 2022.

---

Mayor

ATTEST:

---

City Clerk

# Solar System Sizing

Issue Date:  
October 2022

Issued by: Kendall Minor,  
Utilities Executive Director

## Purpose:

*The purpose of this policy for Solar System Sizing is to provide specific details and procedures for the allowable sizing of customer-sited renewable energy generation resources in alignment with Fort Collins Municipal Code Sections 26-464 through 26-470. Nothing contained herein is intended to supersede the Fort Collins Municipal Code.*

## Applicability:

*This policy applies to the Utilities Electric Service Areas of the City.*

## Authorized by:

*City Council, October 2022*

*Utilities Executive Director, October 2022*

## Executive Summary

These administrative rules adhere to the legal parameters and objectives established in the Fort Collins Municipal Code Sections 26-464 through 26-470. The processes and procedures contained within are based on procedures established and tested under the Solar Rebate Program (Program) from 2010 to date. The Program is managed by Utilities Energy Services division in collaboration with Light & Power, Finance and Customer Connections. The Utilities Program Manager (UPM) is supported by the Utilities Program Specialist (UPS) who are primarily responsible for the implementation of these requirements.

**Solar System Sizing Summary:** As described in this policy:

- For customer-owned systems, allowable solar sizing is determined by compliance with either:
  - intended renewable energy offset is no more than 200% of the customer's annual electric use at the time of interconnection application, or
  - generating capacity is no more than the allowable reference system size (currently 12 kW-DC, based on the residential customer class average annual electricity consumption).
- Systems that are not owned by the customer will be limited to an intended renewable energy offset of less than 120%.
- If sufficient electric use history is not available, then Utility established standard values can be substituted.
- Sizing takes into account generation onsite and Community Solar shares.
- Sizing does not include the Green Energy Program participation, the share of grid energy delivered to all customers generated by renewable resources, or on-site battery storage equipment.

# Solar System Sizing

Issue Date:  
October 2022

Issued by: Kendall Minor,  
Utilities Executive Director

**Sizing Assessment Terms and Methods:** Sizing analysis of solar PV systems and other qualifying renewable generators refers to the following terms and methods:

- *Intended renewable energy offset* = (modeled annual energy production of all renewable sources) / (average annual electric consumption), where:
  - *Annual energy production of all renewable sources* is the sum of the modeled average annual energy production (or average of observed data for installed generation) of qualified renewable energy generation sources located onsite as well as offsite sources owned by the customer or benefitting that unique customer account (such as Community Solar)
  - *Average annual electric consumption* is the customer's total electric energy consumption at the site over the previous 24 calendar months divided by 2.
- *Allowable reference system size:* Staff will annually review the annual sector consumption values and determine a system size that aligns with the 200% sizing criteria on an average basis. *The value of this reference size is 12 kilowatts-DC as of October 2022 for residential customers, based on the residential customer class average annual electricity consumption.*
- For customers who have less than 6 months of electric usage history that's representative of their full occupation of the premises, the best available information on the electric use of the proposed building(s) will be substituted. New homes may use a Home Energy Rating Score (HERS) or other energy modeling provided for energy code compliance. For older homes, Utilities reference data for energy use per square foot will be combined with Larimer County Tax Assessor's office building size data (sum of "Total Sq Ft" + the "Bsmt. Fin. Sq Ft" values) to calculate annual electric use. For example, the average annual electric consumption for single-family detached homes with gas heat built before 2020 is 3 kWh per square foot of conditioned space.

## Solar System Size Allowance

- For solar systems not owned by the owner of the property where installed, solar system sizing is limited to 120% of intended renewable energy offset.
- For solar systems owned by the same owner as the property where it is to be installed, solar PV system sizing is limited by the following combination of program rules:
  - At the time of project application, the contractor shall provide the intended renewable energy offset percentage.
  - Staff will approve the system size if either of the following conditions are met:
    - intended renewable energy offset is less than 200%, or
    - system size is less than the allowable reference system size (currently 12 kW-DC, based on the residential customer class average annual electricity consumption).
  - If the total size of the generation system is greater than allowable reference system size and the intended energy offset is greater than 200%, the customer may submit an exception request documenting why the system is oversized. Exceptions related to electrification of customer loads or anticipated increases in use may be approved on a case-by-case basis.

This policy is subject to revision at the discretion of the Utilities Executive Director.

**Utilities**

electric • stormwater • wastewater • water  
 222 Laporte Ave.  
 PO Box 580  
 Fort Collins, CO 80522-0580

Item 10.

**970.212.2900**

V/TDD: 711

utilities@fcgov.com  
 fcgov.com/utilities

**MEMORANDUM****DATE:** July 1, 2022**TO:** Mayor Arndt and City Councilmembers**THRU:** Kelly DiMartino, Interim City Manager

Kendall Minor, Utilities Executive Director

**FROM:** John Phelan, Energy Services Manager and Policy Advisor**RE:** June 28, 2022 Work Session Summary: Solar 120% Sizing Rule and Rates

The purpose of this memo is to summarize the discussion from the work session regarding the solar 120% sizing rule and associated electric utility rates. Councilmembers Arndt, Francis, Pignataro, Peel, Gutowsky and Ohlson were present. The overall objectives for local solar policy and practice are twofold: 1) to support scaled up adoption in alignment with Our Climate Future and resource planning targets; with 2) a sustainable and equitable funding for Utilities customer service, operations, and infrastructure. The existing sizing requirement articulated in City Code limits new solar systems to provide no more than 120% of a customer's historical use. Combined with replacement of the 120% rule, proposed changes to several components of the current rate structure align with accomplishing these outcomes.

**Feedback from Council included:**

- Several Councilmembers expressed support for all five of the primary recommendations presented by staff.
- Staff responded to several questions related to how solar sizing may impact requirements related to Platte River Power Authority.
- Councilmembers expressed support for continued collaboration with Platte River and the other member cities towards accomplishing community energy goals.
- A Councilmember asked about the role of community solar in addition to rooftop solar.
- A Councilmember asked questions about several rate components, expressing:
  - An interest to re-examine the base rate
  - Strong support for the tier component of the time-of-day rate
  - Support for replacing the 120% sizing rule, and
  - Pointed to the staff proposed next step of a written summary of potential benefits and risks of removing the tier component from the current rates

**Next steps:**

- Bring forward ordinance language to revise City Code with regards to the Solar 120% Rule with replacement by an administrative model for flexibly managing solar sizing, including coordination with Platte River
- Deliver a written summary to Council regarding the potential benefits and risks of removing the tier component of the TOD rate regarding electrification, customer service, and solar
- Prepare related options for the fall electric rate ordinances that support solar and electrification goals

**CC:** Gretchen Stanford, Utilities Deputy Director Customer Connections  
 Lance Smith, Utilities Finance Director  
 Randy Reuscher, Utilities Rate Analyst

# MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



## ENERGY BOARD

September 8, 2022 – 5:30 pm  
222 Laporte Ave – Colorado Room

### ROLL CALL

**Board Members Present:** Alan Braslau (remote), Steve Tenbrink, Dan Gould, Marge Moore (remote), Emilio Ramirez (remote), Jeremy Giovando (remote), John Fassler, Bill Becker, Sidra Aghababian

**Board Members Absent:**

### OTHERS PRESENT

**Staff Members Present:** Christie Fredrickson, Adam Bromley, Brian Tholl, John Phelan, Leland Keller (remote), Honore Depew (remote), Cyril Vidergar (remote), Heather Young, Shannon Ash, Lance Smith (remote), Kendall Minor

**Members of the Public:** Tom Loran, Rich Stave

### SOLAR 120% RULE CODE REVISIONS

*John Phelan, Energy Services Manager & Energy Policy Advisor*  
*Leland Keller, Energy Services Engineer*

Staff is proposing to replace the 120% rule in code because it will encourage solar systems that serve increased use from electrification (e.g., electric vehicles, heat pumps), accelerate contribution to reaching the community’s renewable electricity goals, as well as simplify application process for customers, solar trade allies, and staff.

Our Climate Future targets 5% local solar and Platte River Power Authority’s resource planning includes 100 to 150 megawatts of distributed solar by 2030. Along with this change, staff anticipates 60-75 megawatts of solar (and increase of 2.5) inclusive of 5,000-7,000 solar systems (roughly 20% of single-family homes). In order to sustainably scale solar in the community, staff will have to evaluate the City’s rate mechanisms after the change, as well as on an annual basis. If the utility maintains the current solar credit rate as retail rates increase over time, there will be no reduction in benefit (the self-consumed benefit continues to increase). Staff will also annually review all the rate components (base charges, solar credit, distribution facilities, and Time-of-Day charges) to ensure it remains sustainable

The new proposed ordinance reads as follows: “The qualifying facility is sized according to policies set by the Utilities Executive Director under Subsection (h) of this Section, relative to an allowable reference size or the customer generator’s average annual electricity consumption at that site, including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way.”

The recommended ordinance will replace 120% language in all rate codes with reference to the Utilities Director Administrative Rules. The proposed rules for customer-owned systems will have sizing approval for up to 200% of historical annual use, or 12 kW DC or less. For third party-owned systems (Purchase Power Agreements or leases) will have sizing approval for up to 120% of historical annual use, limited by the Platte River power supply agreement. The rules include details on how percentages are calculated, options for homes without history, and a process for exceptions. Council adopts these rules and they can be subsequently adapted administratively. If these changes are approved, it is expected to reduce staff review of calculations from roughly 600 to less than 40 annually.

Board member Braslau said the sizing limits don’t read clearly to him and suggested clarifying it by noting that the system is limited to 12 kW of it can be larger if it falls beneath 200% of the home’s historical usage.



# MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



## ENERGY BOARD

### REGULAR MEETING

---

Mr. Phelan noted that a caveat exists for third party-owned systems (PPA or lease), the 120% rule will remain due to the Power Supply Agreement with Platte River Power Authority.

Board member Braslau noted there is no mention of the rate in the ordinance or in text of the administrative rules, which he believes is fundamental to increase in solar capacity beyond 120%. He said it is important to encourage self-consumption and not to encourage individuals to get into the business of selling energy. Mr. Phelan said there will be info in the Council Agenda Item Summary that will discuss the rate goals, but the action staff is requesting is not related to rates.

Board member Braslau also asked if it is possible to add a cap on residential customers are paid annually beyond their self-consumption. Vice Chairperson Becker said if the rate is appropriate, then having private investment capital in our climate future is a good thing. Additionally, Mr. Braslau wondered if staff could compare subsidies to what the City is spending in the Income Qualified Assistance Plan.

Mr. Phelan said staff calculated that the current rate structure represents about 0.5% residential revenue, or about 40 cents per month on non-solar customers (about \$300,000). If we don't make any of the rate structure adjustments, it could go up to approximately \$1 per month, which is why staff is proposing the differentials.

**Vice Chairperson Becker moved the Energy Board recommends that Council adopt the Ordinance that replaces the current solar sizing requirements in code with revised language referencing Utility Executive Director's administrative rules and that approves the October 2022 solar sizing rules, inclusive of the minor language clarifications suggested by the Energy Board. Board member Moore seconded the motion.**

Discussion:

Board member Braslau noted that nothing in this recommendation goes against his previous comments, he thinks simplifying the code and will allow for flexibility. He clarified that he does support this motion.

**The motion passed unanimously, 9-0.**



# Solar Sizing Code Changes and Administrative Rules

John Phelan, P.E.

Energy Services Manager and  
Policy Advisor

Leland Keller

Energy Services Engineer

## Ordinance

- Amends Chapter 26 of the code regarding net metered renewable energy system sizing, and
- Adopting administrative rules for net metered system sizing



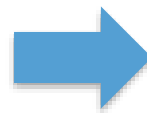
## Why Replace the 120% Code Language with Administrative Policies

- **Encourage** solar systems that serve increased use from electrification (e.g., electric vehicles, heat pumps)
- **Accelerate** contribution to reaching community renewable electricity goals
- **Simplify** application process for customers, solar trade allies and staff



### Targets

- OCF 2030 target of 5% local solar
- Platte River resource planning includes 100 to 150 megawatts of distributed solar by 2030.



### Local Solar in 2030

- 60-75 megawatts of solar (2.5x)
- 5,000-7,000 solar systems (~20% of single-family homes)

## Ordinance

- Replace 120% language in all electric rate sections with:
  - Reference to the Utilities Director Administrative Rules
  - Residential allowance for the applicant to choose a sizing up to 200% of either:
    - The applicant's annual use, or
    - The residential class average annual use
  - Commercial allowance for sizing up to 200% of the applicant's annual use
  - For third party owned systems
    - Sizing allowance is up to 120% of applicant's annual use
      - Limited by Platte River power supply agreement
  - Rules include details on how percentages and customer class averages are calculated

# QUESTIONS?



October 4, 2022

# AGENDA ITEM SUMMARY

City Council




---

## STAFF

Ginny Sawyer, Policy and Project Manager  
Brad Yatabe, Legal

---

## SUBJECT

**Resolution 2022-101 Granting A Revocable Permit to Current Holders of Temporary Outdoor Expansion Permits Issued Pursuant to Emergency Rule and Regulation No. 2020-17A and Emergency Ordinance No. 124, 2020, to Temporarily Continue to Occupy Public Rights-of-Way.**

---

## EXECUTIVE SUMMARY

The purpose of this item is to bring forth a resolution that addresses a timing gap between terminating emergency rules and regulations and consideration of code changes to allow expanded outdoor permitting on an on-going basis.

---

## STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

---

## BACKGROUND / DISCUSSION

On October 6, 2020, Council adopted Emergency Ordinance No. 124, 2020, to approve Emergency Rule and Regulation No. 2020-17A to allow local businesses to expand their patios/business operations onto City rights-of-way or private property to accommodate social distancing and occupancy restrictions imposed in response to the COVID emergency.

These expansions were permitted provided certain conditions were met while recognizing and allowing that not all existing requirements would be met or enforced. These Temporary Outdoor Expansion Permits ("Expansion Permits") terminate when the local declared public health emergency is deemed over and the Emergency Rules are lifted. The City Manager, in consultation with the County Health Director, is ready to terminate the emergency orders. Code changes to clarify and allow expanded outdoor permits are scheduled before Council on first reading on October 18, 2022. The timing between the code changes, implementation, and terminating the emergency rules and the Expansion Permits leaves a gap during which existing outdoor patios could be at risk of being in violation of both local ordinances and liquor licensing requirements.

This resolution addresses the timing gap by granting a temporary revocable permit pursuant to City Charter Article XI, Section 10, to let current holders of Expansion Permits continue to expand their businesses into the right-of-ways provided the holders continue to comply with the terms of the issued Expansion Permits and Emergency Rule and Regulation No. 2020-17A. The rights granted by the temporary revocable permit are intended, among other things, to grant a temporary possessory interest in public rights-of-way specified in each Expansion Permit to satisfy liquor licensing requirements to allow the transport of alcoholic

beverages across or within such rights-of-way. A total of ten temporary revocable permits would be granted with the list of grantee businesses contained in the Resolution.

**CITY FINANCIAL IMPACTS**

---

None.

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

---

Not applicable.

**PUBLIC OUTREACH**

---

Not applicable.

**ATTACHMENTS**

---

1. Resolution for Consideration.



RESOLUTION 2022-101  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
GRANTING A REVOCABLE PERMIT TO CURRENT HOLDERS OF TEMPORARY  
OUTDOOR EXPANSION PERMITS ISSUED PURSUANT TO EMERGENCY RULE AND  
REGULATION NO. 2020-17A AND EMERGENCY ORDINANCE NO. 124, 2020, TO  
TEMPORARILY CONTINUE TO OCCUPY PUBLIC RIGHTS-OF-WAY

WHEREAS, on October 6, 2020, City Council adopted Emergency Ordinance No. 124, 2020, to approve Emergency Rule and Regulation No. 2020-17A (“Regulation 2020-17A”) regarding Temporary Outdoor Expansion Permits; and

WHEREAS, Regulation 2020-17A, and its predecessor Emergency Rule and Regulation No. 2020-17 (“Regulation 2020-17”), were originally adopted in response to the COVID emergency to allow local businesses to temporarily expand their business footprint onto City or private property adjacent to or in the immediate vicinity of their fixed location to accommodate greater social distancing at their establishments; and

WHEREAS, Regulation 2020-17A and Regulation 2020-17 provided the City Engineer with the ability to issue Temporary Outdoor Expansion Permits (“Expansion Permits”) to allow businesses to expand into specified public rights-of-way or private property provided certain conditions were met; and

WHEREAS, pursuant to Emergency Ordinance No. 124, 2020, and Regulation 2020-17A, Expansion Permits terminate upon termination of the declared local COVID emergency; and

WHEREAS, the ability of food and beverage service establishments to expand their dining area footprint into the public rights-of-way pursuant to the Expansion Permits has contributed to the financial viability of such businesses and the wellbeing of the City; and

WHEREAS, based upon the benefits of allowing such businesses to temporarily expand into public rights-of-way, the City is considering the adoption of amendments to the Code of the City of Fort Collins (“Code Amendments”) to continue to allow food and beverage service establishments to expand their dining area footprint into public rights-of-way upon termination of the currently issued Expansion Permits when the local declared COVID emergency terminates; and

WHEREAS, to provide sufficient time for the review and possible adoption of the Code Amendments and to allow holders of currently issued Expansion Permits to continue to operate within the public rights-of-way specified in the Expansion Permits should the local declared emergency terminate before such Code Amendments, if adopted, go into effect, City Council hereby wishes to grant current Expansion Permit holders the temporary right to continue to occupy the specified public rights-of-way pursuant to certain conditions set forth in this Ordinance; and

WHEREAS, such right to continue to occupy such public rights-of-way may be granted as a revocable permit (“Revocable Permit”) pursuant to City Charter Article XI, Section 10, revocable at City Council’s pleasure; and

WHEREAS, the rights granted pursuant to the Revocable Permit are intended, among other things, to grant a temporary possessory interest in the public rights-of-way specified in each Expansion Permit to satisfy liquor licensing requirements for the purpose of transporting alcoholic beverages across or within such public rights-of-way; and

WHEREAS, other than granting a sufficient possessory interest intended to satisfy liquor licensing requirements, the Revocable Permit shall not be construed to alter in any way liquor licensing requirements, and it is the sole responsibility of each food and beverage service establishment granted a Revocable Permit to comply with all applicable state and local liquor laws, rules, and regulations; and

WHEREAS, the issuance of Revocable Permits is in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby grants to each holder, as specifically identified in Section 3, of a valid Expansion Permit authorizing expansion into specified public rights-of-way that was issued prior to the adoption date of this Resolution, and which holder is actually operating in such public rights-of-way as of the adoption date of this Resolution, a Revocable Permit granting the temporary right to continue to occupy such public rights-of-way pursuant to the following conditions:

- A. The grantee of a Revocable Permit must continue to comply with the terms of the issued Expansion Permit and the terms of Regulation 2020-17A, attached hereto and incorporated herein as Exhibit "A" regardless of whether the local declared COVID emergency has been terminated.
- B. The City Engineer shall continue to administer and review compliance with Regulation 2020-17A and should the City Engineer revoke an Expansion Permit pursuant to Regulation 2020-17A, the Revocable Permit granted under this Resolution to the holder of a revoked Expansion Permit shall automatically be revoked without further Council action necessary.
- C. A Revocable Permit shall be valid until the soonest of the following events have occurred:
  1. The grantee's Expansion Permit is revoked by the City Engineer.
  2. Forty-five (45) days have elapsed since the effective date of the Code Amendments.
  3. The grantee has obtained the necessary permit pursuant to the Code Amendments to continue to operate in the public rights-of-way.

D. Revocable Permits are not transferable.

Section 3. That Revocable Permits shall be granted to the following Expansion Permit holders for the following businesses:

1. Armstrong Hotel, 259 S. College Ave., Expansion Permit #20-20043
2. Bean Cycle Roasters, 144 N. College Ave., Expansion Permit #20-20052
3. Bistro Nautille, 150 W. Oak St., Expansion Permit #20-20005
4. Blind Pig Pub, 214 Linden St., Expansion Permit #20-20007
5. Ciao Vino, 255 Linden St., Expansion Permit #21-8003
6. Lucile’s Creole Café, 400 S. Meldrum St., Expansion Permit #20-20046
7. Pour Brothers, 817 Peterson St., Expansion Permit #20-20017
8. Surfside 7, 238 Linden St., Expansion Permit #20-20054
9. The Reserve by Old Elk Distillery, 253 Linden St., Expansion Permit #20-20003
10. The Welsh Rabbit, 200B Walnut St., Expansion Permit #20-20022

Section 4. That the City Council reserves the right to revoke any Revocable Permit at its pleasure notwithstanding any language in this Resolution.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 4th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

October 4, 2022



## AGENDA ITEM SUMMARY

City Council

---

### STAFF

Paul Sizemore, Director, Community Development & Neighborhood Services  
 Maren Bzdek, Manager, Historic Preservation Services  
 Jim Bertolini, Senior Historic Preservation Planner  
 Claire Havelda, Legal

---

### SUBJECT

**Resolution 2022-102 Adopting Findings of Fact Supporting the Historic Preservation Commission's Determination That 1802 North College Avenue was Eligible for Landmark Designation and Denying the Landowner's Appeal.**

---

### EXECUTIVE SUMMARY

The purpose of this item is to make findings of fact regarding the appeal of the Historic Preservation Commission's Decision Finding the Property at 1802 North College Avenue a Historic Resource for the Purposes of Development Review under Land Use Code 3.4.7 and therefore eligible for Landmark Designation. The appeal was heard by Council on September 20, 2022.

---

### STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

---

### BACKGROUND / DISCUSSION

On July 20, 2022, the Historic Preservation Commission (HPC) held a hearing to consider an appeal of a staff finding for the property at 1802 North College Avenue that determined the property eligible under the City's Landmark standards in City Code Section 14-22 and subject to the responsibilities in Land Use Code 3.4.7. A staff decision on this matter was issued on April 22, 2022, in response to a development application put forward by Raising Cane's that would demolish the existing properties at 1800 and 1802 North College Avenue for a new restaurant. Following the July 20, 2022, HPC appeal hearing, on August 3, 2022, the property owner filed a Notice of Appeal, with the following allegations:

1. The Historic Preservation Commission considered evidence relevant to its findings which was substantially false or grossly misleading.
2. The Historic Preservation Commission failed to properly interpret and apply relevant provisions of the City Code, specifically Municipal Code Section 14-22 for Standards of Eligibility and Section 14-23 for the Process for Determining Eligibility.

On September 20, Council conducted a hearing to consider the allegations in the appeal, the record on appeal, and presentations by City staff, the Appellant and their legal counsel, and proponents of finding the property Eligible. After discussion, Council voted (4-0, 3 absences) to deny the appeal, finding that

the Historic Preservation Commission conducted a fair hearing and properly interpreted applicable sections of the Municipal Code.

**ATTACHMENTS**

---

1. Resolution for Consideration

RESOLUTION 2022-102  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
ADOPTING FINDINGS OF FACT SUPPORTING THE HISTORIC PRESERVATION  
COMMISSION'S DETERMINATION THAT 1802 NORTH COLLEGE AVENUE WAS  
ELIGIBLE FOR LANDMARK DESIGNATION AND  
DENYING THE LANDOWNER'S APPEAL

WHEREAS, on July 20, 2022, the Fort Collins Historic Preservation Commission (the "HPC") conducted a public hearing to review the Landmark Eligibility determination of 1802 North College Avenue (the "Property"); and

WHEREAS, during this appeal hearing, the HPC upheld the City Staff determination that the Property was eligible to be considered for landmark designation pursuant to City Code Section 14-22; and

WHEREAS, pursuant to City Code Sections 2-48 and 2-49, the Appeal was filed timely, and the Appellant-Landowner is a party-in-interest eligible to file an appeal; and

WHEREAS, the Appeal alleged that the HPC failed to conduct a fair hearing because they considered evidence relevant to their findings that was substantially false or grossly misleading; and

WHEREAS, the Appeal further alleged that the HPC failed to properly interpret and apply City Code Section 14-22 (and further cited to Section 14-23 which describes the procedure for submitting an appeal – and was not further discussed in the Appellant's arguments on appeal); and

WHEREAS, on September 20, 2022, the City Council, after notice was given in accordance with City Code Section 2-52, held a public hearing pursuant to City Code Section 2-54 to consider the allegations raised in the Appeal, at which hearing the City Council considered the record on appeal, statements concerning physical characteristics of the subject property obtained by Councilmembers during the site inspection, and testimony from City Staff, the Appellant's representative, and parties-in-interest who opposed the Appeal; and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the Council hearing on September 20, 2022, that the HPC did not fail to conduct a fair hearing as alleged by Appellant; and

WHEREAS, the City Council further found and concluded based on the evidence in the record and presented at the City Council hearing on September 20, 2022, that the HPC properly interpreted and applied City Code Section 14-22(a) regarding the *significance* of the Property because it related to an "individual" (Mr. Frank Perez) and "significant events" in history, including: 1) Mexican immigration to Fort Collins following World War II; 2) establishment of businesses reflecting Mexican foodways; and 3) a small immigrant business owner building a community space during a time in history rife with racial prejudice; and

WHEREAS, the City Council further found and concluded based on the evidence in the record and presented at the City Council hearing on September 20, 2022, that the HPC properly interpreted and applied City Code Section 14-22(b) as it relates to the *integrity* of the Property because it retains historic integrity based on its appearance when compared with the 1976 Assessor's Appraisal card photograph and accurately reflects the humble nature of a Mexican family-owned restaurant; and

WHEREAS, City Code Section 2-56(c) provides that no later than the date of its next regular meeting after the hearing of an appeal, City Council shall adopt, by resolution, findings of fact in support of its decision on such appeal.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that, pursuant to Section 2-56(c) of the City Code, the City Council hereby makes and adopts the following findings of fact and conclusions:

1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.
2. That, based on the evidence in the record and presented at the City Council Hearing on September 20, 2022, the HPC did not fail to conduct a fair hearing, because they did not consider evidence relevant to their findings that was substantially false or grossly misleading.
3. That, based on the evidence in the record and presented at the City Council hearing on September 20, 2022, the Council finds that the HPC properly interpreted and applied City Code Section 14-22 for the reasons set forth in the recitals above.
4. That, based on the evidence in the record and presented at the hearing on September 20, 2022, the Appeal is without merit and is denied in its entirety.
5. That adoption of this Resolution shall constitute the final action of the City Council in accordance with City Code Section 2-56(c).

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 4th day of October, A.D. 2022.

---

Mayor

ATTEST:

---

City Clerk

October 4, 2022

# AGENDA ITEM SUMMARY

City Council




---

## STAFF

Rachael Johnson, Sr. Equity Specialist  
 Aaron Guin, Legal

---

## SUBJECT

**Items Relating to the Designation of Indigenous Peoples' Day.**

---

## EXECUTIVE SUMMARY

A. Native American Community Update.

B. Resolution 2022-103 Recognizing the Second Monday in October as "Indigenous Peoples' Day" in the City of Fort Collins, Colorado, Acknowledging and Supporting the Native and Indigenous Peoples Living in Fort Collins, and Affirming the City's Commitment to Recognize and Include the Voices and Interests of Native and Indigenous Peoples in the City's Commitment to Work Towards Equity.

Members of the Fort Collins Native American and Indigenous community collectively have created a resolution recognizing the second Monday in October as Indigenous Peoples' Day. Staff from the Equity and Inclusion Office also will share an update on the work that has been taking place with the Native American community this year.

---

## STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

---

## BACKGROUND / DISCUSSION

A diverse group of Native American community members who drafted the Indigenous Peoples' Day Resolution will be present to read it.

The staff report will include: 1) context regarding why it is so important to engage the Native American community; 2) priorities identified by the Fort Collins Native American community; 3) updates on work currently in progress; and 4) recommendations for future work.

Recommendations for future consideration include: 1) support for the creation of a Fort Collins Native American community center; 2) creation of a community consultant program to pay community members for their expertise based on lived experience; 3) creation of a City-County Native American Advisory Committee; 4) preparation for future tribal consultation; and 5) support of the Colorado Truth, Restoration, and Education Commission.



Please see below for additional information on section 3-5 of the Resolution. Work is underway; however, the Resolution reaffirms and supports continuous engagement around these efforts.

**Section 3-** *That the City of Fort Collins will encourage businesses, organizations, and public institutions to recognize, cultivate strong relationships with, stand in solidarity with, and celebrate Native and Indigenous peoples.*

The Fort Collins Museum of Discovery has a long-standing relationship with both the urban Native community and Tribes with a connection to the area and has collaborated with the Equity Office on recent initiatives and conversations connected to the Native community to ensure alignment throughout the City organization. The Equity and Inclusion Office has also helped to fund events hosted by the Northern Colorado Intertribal Powwow Association (NCIPA). The senior equity specialist is a member of the Native American Advisory Council at Colorado State University, but this connection is dependent on the current staff member remaining in that role and more work needs to take place to establish a more formalized relationship with this group. The Multicultural Business Support Center was established in the Economic Health Office to support community members of color, including Indigenous community members, with startup and nonprofit business needs and capacity-building. This group will be encouraged to engage in intentional outreach to and support of the Native community.

**Section 4.** *That the City of Fort Collins will explore collaboration with Tribal Nations and the Native and Indigenous community to encourage educational institutions in the city to develop and implement historically accurate and culturally appropriate curricula related to the history, traditions, and current issues of Native and Indigenous Peoples.*

The Equity Office has initiated connections with Poudre School District (PSD) to discuss needs and ways forward to help educators accurately represent history, traditions, and current issues of Native and Indigenous Peoples. As these conversations move forward, it will be critical to involve representatives of the Native community in these discussions. Additionally, it is recommended that the City support and partner with the Indigenous Science, Technology, Arts and Resilience (ISTAR) program, led by Lindsey Schneider at CSU.

**Section 5.** *The Office of Equity and Inclusion will work on behalf of the City departments to communicate, collaborate, and coordinate with Tribal Nations and the Native and Indigenous community through ongoing outreach, to include their interests and concerns in planning community-led initiatives, to evaluate the impact of City policies and practices on the community, to work to ensure equitable access to opportunities in the City of Fort Collins.*

The Equity Office is working very closely with Native American community members by listening and providing space for the community to organize around their needs and interests. Establishment of a Native American Advisory Circle is important to continued collaborations with the Native community.

**CITY FINANCIAL IMPACTS**

---

The Indigenous Peoples’ Day Resolution does not commit the City to any financial action. Recommendations made in the presentation about the work that is happening with the Native American community could have financial impacts, if the City were to engage in future projects.

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

---

Not applicable.

## **PUBLIC OUTREACH**

---

There has been a high level of engagement with the Fort Collins Native American and Indigenous community regarding the resolution and on the items covered in the staff report.

## **ATTACHMENTS**

---

1. Resolution for Consideration
2. Presentation

RESOLUTION 2022-103  
 OF THE COUNCIL OF THE CITY OF FORT COLLINS  
 RECOGNIZING THE SECOND MONDAY IN OCTOBER AS “INDIGENOUS PEOPLES’  
 DAY” IN THE CITY OF FORT COLLINS, COLORADO, ACKNOWLEDGING AND  
 SUPPORTING THE NATIVE AND INDIGENOUS PEOPLES LIVING IN FORT COLLINS,  
 AND AFFIRMING THE CITY’S COMMITMENT TO RECOGNIZE AND INCLUDE THE  
 VOICES AND INTERESTS OF NATIVE AND INDIGENOUS PEOPLES IN THE  
 CITY’S COMMITMENT TO WORK TOWARDS EQUITY

WHEREAS, the City Council recognizes that the continents now known as North and South America have been occupied since time immemorial by many diverse and established Native and Indigenous Peoples; and

WHEREAS, Fort Collins is situated on the ancestral homelands of many tribes, including the Arapaho, Cheyenne, and Ute peoples, was an important site of trade, gathering, and healing for numerous other Tribes and Nations, is now home to a diverse urban Native community with individuals and families from many different Tribal Nations, and includes important cultural sites, landscapes and historic structures situated in northern Colorado, including, for example, Fossil Creek, Spring Creek, the Council Tree, and Soapstone Prairie Natural Area; and

WHEREAS, the City of Fort Collins acknowledges that this City was established as a military base built upon the homelands of the Native and Indigenous peoples of this region, resulting in their forced displacement from their lands; and

WHEREAS, Native and Indigenous peoples in Fort Collins, as in all parts of the Americas, suffer from the legacy of colonization and national policies designed to erase and marginalize their presence; and

WHEREAS, Fort Collins benefitted, and continues to benefit, directly from Native American removal policies that violated human rights, broke federal treaties, and forced Native and Indigenous peoples from their homelands; and

WHEREAS, Fort Collins recognizes the resilience of Native and Indigenous Peoples despite the harms these systems and policies have caused, and greatly values the social, economic and cultural contributions they make; and

WHEREAS, Indigenous Peoples’ Day was first proposed in 1977 by the United Nations International Conference on Discrimination against Indigenous Populations in the Americas and has been adopted by several Colorado municipalities, including the cities of Denver, Boulder, Colorado Springs, and Durango; and

WHEREAS, Native and Indigenous Peoples encourage the City of Fort Collins and its residents to be educated to respect and honor traditional practices regarding interdependence of all humanity and living things and celebrating a vast and rich living tradition through ancestral recognition and diversity of knowledge and perspectives, including sustainable practices; and

WHEREAS, Fort Collins promotes closing the equity gap for Native and Indigenous peoples through policies and practices that respect sovereignty and Indigenous self-determination aligned with the United Nations Declaration on the Rights of Indigenous Peoples, which establishes a universal framework of minimum standards for the survival, dignity and well-being of the Indigenous Peoples of the world and elaborates on the existing human rights standards and fundamental freedoms as they apply to the specific situation of Indigenous Peoples, in alignment with the City's Neighborhood Livability and Social Health strategic objective 1.4 to advance equity for all.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS:

Section 1. That in the pursuit of shared responsibility in promoting knowledge about Native and Indigenous Peoples and combating prejudice and discrimination, the City of Fort Collins does hereby resolve that the second Monday in October of each year will be recognized as Indigenous Peoples' Day, and may at that time support events that encourage awareness, understanding, and appreciation of Native and Indigenous Peoples, their traditions, culture, and our shared history in these ancestral lands.

Section 2. That the City of Fort Collins recognizes that harm was done and acknowledges that we have a shared responsibility to support the Native and Indigenous Peoples residing in the City of Fort Collins and to communicate, collaborate, and coordinate with Tribal Nations that have historic interests and presence in the area.

Section 3. That the City of Fort Collins will encourage businesses, organizations, public institutions, and City departments to recognize, cultivate strong relationships with, stand in solidarity with, and celebrate Native and Indigenous peoples.

Section 4. That the City of Fort Collins will explore collaboration with Tribal Nations and the Native and Indigenous community to encourage educational institutions in the City to develop and implement historically accurate and culturally appropriate curricula related to the history, traditions and current issues of Native and Indigenous Peoples.

Section 5. That the Office of Equity and Inclusion will work on behalf of the City to communicate, collaborate, and coordinate with Tribal Nations and the Native and Indigenous community through ongoing outreach, to include their interests and concerns in planning City initiatives, to evaluate the impact of City policies and practices on Tribal Nations and the Native and Indigenous community and to work to ensure equitable access to opportunities in the City of Fort Collins.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 4th day of October, A.D. 2022.

\_\_\_\_\_  
Mayor

ATTEST:

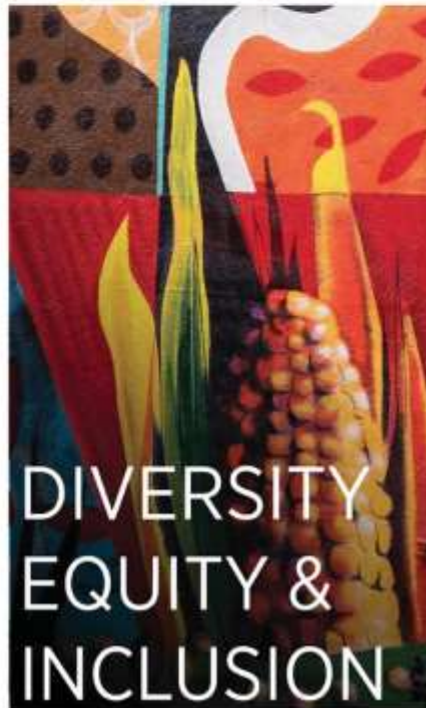
\_\_\_\_\_  
City Clerk

10/4/2022

Item 13.

# Native American Community Engagement

Rachael Johnson



## Context

### 1. Urban Native community

- *Native Americans*
- *Tribal citizens*
- *Indigenous*
- *Alaska Natives, First Nations, Native Hawaiians*

### 2. Tribes with ties to Northern Colorado

### 3. Tribal Sovereignty

### 4. Government-to-Government Relationship

### 5. Work grounded in consensus, trust-building, and community.



*Members of the CSU Native community*

# Community Priorities

## 1. Native American Community

### Center

- Denver Indian Center and others as model
- Creation of 501(c)3
- Many funding sources available
- City Support





## Community Priorities

2. Land Acknowledgment and Land Back
3. Soapstone/Bison
4. Street Renaming
5. Plant Gathering in Natural Areas
6. Indigenous Peoples' Day Resolution



*Bison release at Soapstone*

## Updates & Work In Progress

1. Indigenous Community Relations Specialist
2. Land Acknowledgment
3. Providing space/land for powwow, culture classes, and other events and gatherings
4. Hughes Land
5. Community Garden
6. Learning space for City leadership and staff
7. Coordination with CSU and Larimer County



*Miss Nizhoni Skye Norwood, 2022-23 NCIPA Princess*

## Recommendations

1. Support for a Native American Community Center
2. Community Consultants Program
3. Establish Native American Advisory Committee
4. Prepare for Tribal Consultation
5. Support of the Colorado Truth, Restoration, and Education Commission



# THANK YOU!

For Questions or Comments, Please Contact:

Rachael Johnson

[rajohnson@fcgov.com](mailto:rajohnson@fcgov.com) | (970) 416-8064



October 4, 2022



## AGENDA ITEM SUMMARY

City Council

---

### STAFF

---

Lawrence Pollack, Budget Director  
Travis Storin, Chief Financial Officer  
John Duval, Legal

### SUBJECT

---

**Public Hearing #2 on the 2023-24 Recommended Budget for the City of Fort Collins.**

### EXECUTIVE SUMMARY

---

This is the second public hearing on the City Manager's 2023-24 Recommended Budget for the City of Fort Collins. The purpose of this public hearing is to gather public input on the 2023-24 budget. Both hearings were set by Council adoption of Resolution 2022-097 at its September 6, 2022, meeting. The City Manager's 2023-24 Recommended Budget can be reviewed at the City Clerk's Office by appointment only and online at [fcgov.com/budget](http://fcgov.com/budget).

Public input will also be taken during the budget adoption meetings on Tuesday, November 1 and Tuesday, November 15, 2022, at 6:00 p.m. in Council Chambers.

**The Appeal of  
Final Design Review for  
1306 West Mountain Ave.  
is provided as a  
separate PDF document.**